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# Executive Orders

## EXECUTIVE ORDER BJ 13-06

### Flags at Half Staff

WHEREAS, Three people were killed by two explosions that targeted the Boston Marathon on Monday afternoon, April 15, 2013;

WHEREAS, More than one hundred seventy other participants and onlookers were injured in this tragic incident;

WHEREAS, Countless law enforcement officers, first responders, volunteers and citizens risked their lives to provide immediate aid to the numerous victims;

WHEREAS, The thoughts and prayers of all Louisianians are with the families and the victims of this horrific attack.

NOW THEREFORE, I, BOBBY JINDAL, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: As an expression of respect for the victims of the Boston attack, effective immediately, the flags of the State of Louisiana shall be flown at half staff over the State Capitol and all public building and institutions of the State of Louisiana until sunset on Saturday, April 20, 2013.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, Saturday, April 20, 2013, unless amended, modified, terminated, or rescinded prior to that date.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 16th day of April, 2013.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
J. Thomas Schedler  
Secretary of State  
1305#073

## EXECUTIVE ORDER BJ 13-07

Executive Branch—DOTD Guidelines for Vehicles,  
Trucks and Loads which Haul Hay from Louisiana to Texas

WHEREAS, R.S. 32:387 sets forth the terms and conditions whereby vehicles hauling certain loads may be issued special permits by the Department of Transportation and Development if they are in excess of legal statutory size and weight limits;

WHEREAS, as a result of the effects of a severe and extended drought conditions in several states, a necessity has arisen for oversize loads of hay to be expeditiously moved

from Louisiana to those states experiencing drought conditions;

WHEREAS, the economic vitality of the farming industry is extremely dependent on the availability of hay for feed for the livestock; and

WHEREAS, in order to provide emergency assistance to farmers, the State of Louisiana is willing to waive certain permits, fees, and other obligations normally incurred by transporters;

NOW THEREFORE, I, BOBBY JINDAL, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and the laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The Department of Transportation and Development, the Department of Public Safety, and the Department of Revenue shall waive the following statutory requirements for the shipment of hay:

A. The following sizes and weights for vehicles transporting hay on highways maintained by the State of Louisiana shall not exceed the following limitations without permits:

1. All such vehicles transporting round hay bales to be loaded side by side across trailers creating dimensions that shall not exceed twelve (12) feet in width and shall not exceed fourteen (14) feet in height.

B. Permit fees are waived for all carriers while engaged in the transportation of hay to the victims of the drought in Texas.

C. The following requirements shall remain in effect:

1. All such vehicles must travel during daylight hours only, beginning at sunrise and ending at sunset.

2. All such vehicles must travel with the required signs and flags properly placed and indicating that they bear oversized loads.

3. Vehicles must be equipped with mirrors so that drivers are able to have a clear view of the highway at least 200 feet to the rear of the vehicle.

4. Loads must be securely bound to the transporting vehicles.

E. Carriers, owners and/or drivers of any vehicle being operated under this Order are responsible for verifying in advance that the actual dimensions and weights of the vehicles and loads are acceptable for all routes being traveled.

SECTION 2. Nothing in this Order shall be construed to allow any vehicle to exceed weight limits posted for bridges and similar structures, or relieve any vehicle or carrier, owner or driver of any vehicle from compliance with any restrictions other than those specified, or from any statute, rule, order or other legal requirement not specifically waived herein.

SECTION 3. This Order is effective upon signature and shall terminate on Friday, August 23, 2013, unless

amended, modified, terminated or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 25th day of April, 2013.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
J. Thomas Schedler  
Secretary of State  
1305#074

# Emergency Rules

## DECLARATION OF EMERGENCY

### Department of Children and Family Services Economic Stability

Drug Screening, Energy Assistance, and Substance Abuse  
Treatment Programs  
(LAC 67:III.1249, 1290, 1291, and 5563)

The Department of Children and Family Services (DCFS) has exercised the emergency provisions of the Administrative Procedure Act, R.S. 49:953 (B) to amend LAC 67:III, Subpart 2 Family Independence Temporary Assistance Program (FITAP), Chapter 12, Subchapter B, Section 1249, repeal Subchapter D, Sections 1290 and 1291; and amend Subpart 15 Temporary Assistance for Needy Families (TANF) Initiatives, Chapter 55, Section 5563. This declaration is necessary to extend the original Emergency Rule since it is effective for a maximum of 120 days and will expire before the Final Rule takes effect. This Emergency Rule extension is effective on May 31, 2013 and will remain in effect until the Final Rule becomes effective.

Pursuant to HB 1, the Department of Children and Family Services is authorized to promulgate emergency rules to facilitate the expenditure of Temporary Assistance for Needy Families (TANF) funds. Adjustments to Section 1249 of FITAP Conditions of Eligibility and Section 5563 of TANF Initiatives, and the elimination of FITAP Special Initiatives Sections 1290 and 1291 are necessary to facilitate the expenditure of Louisiana's TANF Grant. Section 1249, Drug Screening, Testing, Education and Rehabilitation Program is being amended for clarification. The drug screening of FITAP applicants/recipients will no longer be contracted with the Department of Health and Hospitals (DHH), Office of Behavioral Health, but will be performed statewide by DCFS staff. Section 5563 Substance Abuse Treatment Program for Needy Families is amended to mirror Section 1249 in that DCFS will provide statewide drug screening services and continue to fund non-medical treatment to TANF-eligible individuals through partnership with DHH, Office of Behavioral Health. Section 1290 Energy Assistance and Section 1291 Substance Abuse Treatment Program are being repealed.

The department considers emergency action necessary to facilitate the expenditure of TANF funds.

#### Title 67

#### SOCIAL SERVICES

#### Part III. Economic Stability

#### Subpart 2. Family Independence Temporary Assistance Program

#### Chapter 12. Application, Eligibility, and Furnishing Assistance

#### Subchapter B. Conditions of Eligibility

#### §1249. Drug Screening, Testing, Education and Rehabilitation Program

A. ...

B. Screening and Referral Process. All adult applicants for and recipients of FITAP will be screened for the use of or dependency on illegal drugs at initial application and redetermination of eligibility using a recognized and standardized drug abuse screening test.

1. When the screening process indicates that there is a reason to suspect that a recipient is using or dependent on illegal drugs, or when there is other evidence that a recipient is using or dependent on illegal drugs, the caseworker will refer the recipient to the Department of Health and Hospitals, Office of Behavioral Health (OBH) to undergo a formal substance abuse assessment which may include urine testing. The referral will include a copy of the screening form, a copy of the Release of Information Form, and a photograph of the individual for identification purposes.

2. Additionally, if at any time DCFS has reasonable cause to suspect that a recipient is using or dependent on illegal drugs based on direct observation or if DCFS judges to have reliable information of use or dependency on illegal drugs received from a reliable source, the caseworker will refer the recipient to OBH to undergo a formal substance abuse assessment which may include urine testing. All such referrals will require prior approval by the supervisor of the caseworker.

3. OBH will advise DCFS of the results of the formal assessment. If the formal assessment determines that the recipient is not using or dependent on illegal drugs, no further action will be taken unless subsequent screening or other evidence indicates a reasonable suspicion of illegal drug dependency or use. If the formal assessment determines that the recipient is using or dependent on illegal drugs, OBH will determine the extent of the problem and recommend the most appropriate and cost effective method of education and rehabilitation. The education or rehabilitation plan will be provided by OBH or by a contract provider and may include additional testing and monitoring. The OBH assessment will include a determination of the recipient's ability to participate in activities outside of the rehabilitation program.

C. Child care and transportation costs required for participation in the Drug Screening, Testing, Education And Rehabilitation Program will be paid by DCFS.

D. If residential treatment is recommended by OBH and the recipient is unable to arrange for the temporary care of dependent children, DCFS and/or OBH will coordinate with the DCFS, Child Welfare Section, to arrange for the care of such children.

1. - 2. ...

F. If after completion of education and rehabilitation, the recipient is subsequently determined to use or be dependent on illegal drugs, the recipient will be ineligible for FITAP cash benefits until such time that OBH determines that the individual has successfully completed the recommended education and rehabilitation program and is drug free. The eligibility of other family members will not be affected as

long as the individual participates in the Education And Rehabilitation Program.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2453 (December 1999), amended LR 30:495 (March 2004), amended by the Department of Children and Family Services, Economic Stability, LR 39:

#### **Subchapter D. Special Initiatives**

##### **§1290. Energy Assistance**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; and Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:103 (January 2002), repealed by the Department of Children and Family Services, Economic Stability, LR 39:

##### **§1291. Substance Abuse Treatment Program**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; and Act 12, 2001 Reg. Session, Act 16, 2005 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:1492 (June 2002), amended LR 32:1912 (October 2006), repealed by the Department of Children and Family Services, Economic Stability, LR 39:

#### **Subpart 15. Temporary Assistance for Needy Families (TANF) Initiatives**

#### **Chapter 55. TANF Initiatives**

##### **§5563. Substance Abuse Treatment Program for Needy Families**

A. The Department for Children and Family Services (DCFS) shall enter into a Memorandum of Understanding with the Department of Health and Hospitals, Office of Behavioral Health (OBH) wherein DCFS shall fund the cost of substance abuse non-medical treatment of members of needy families to the extent that funds are available commencing June 1, 2002.

B. ...

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Supplemental Nutrition Assistance Program (SNAP) benefits, Child Care Assistance Program (CCAP) services, Medicaid, Louisiana Children's Health Insurance Program (LaChip) benefits, Supplemental Security Income (SSI), Free or Reduced Lunch, or who has earned income at or below 200 percent of the federal poverty level. A needy family includes a minor child living with a custodial parent or caretaker relative who has earned income at or below 200 percent of the federal poverty level.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:190 (February

2003), amended LR 31:486 (February 2005), LR 34:696 (April 2008), amended by the Department of Children and Family Services, Economic Stability, LR 39:

Suzy Sonnier  
Secretary

1305#031

## **DECLARATION OF EMERGENCY**

### **Department of Health and Hospitals Office of the Secretary and Department of Children and Family Services Office of the Secretary**

Community and Family Support System—Flexible Family Fund (LAC 48:I.Chapter 161)

The Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary amend §16103, §16105, §16107, §16109, §16111, §16113 and §16115 of Part I concerning the Community and Family Support System Flexible Family Fund as authorized by R.S. 28:821 and as directed by House Bill 1 of the 2012 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Act 378 of the 1989 Regular Session of the Louisiana Legislature and Act 1011 of the 1991 Regular Session of the Louisiana Legislature created and continued the Community and Family Support System (R.S. 28:821 et seq.). The original Rule was promulgated to implement the cash subsidy program to provide a cash stipend to families of eligible children with severe and profound disabilities to offset the cost of keeping their children at home. The Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary amended the provisions governing the Community and Family Support System Flexible Family Fund by introducing a universal screening protocol for all children with identified qualifying exceptionalities for severity of functional limitations and changed terminology for qualifying exceptionalities to reflect current usage. The Rule also changed the name of the program from cash subsidy to flexible family fund. (*Louisiana Register*, Volume 37, Number 9).

As a result of a budgetary shortfall in state fiscal year 2013, the Department of Health and Hospitals promulgated an Emergency Rule which amended the provisions

governing the Flexible Family Fund to enact financial eligibility criteria for children receiving a home and community-based services waiver (*Louisiana Register*, Volume 38, Number 9). This Emergency Rule is being promulgated to continue the provisions of the October 1, 2012 Emergency Rule. This action is being taken to avoid a budget deficit.

Effective June 1, 2013, the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary amends the provisions governing the eligibility determination for the flexible family fund to enact financial eligibility criteria for children receiving a home and community-based services waiver.

#### **Title 48**

### **PUBLIC HEALTH—GENERAL**

#### **Part I. General Administration**

### **Subpart 11. Community and Family Support System** **Chapter 161. Community and Family Support System -** **Flexible Family Fund**

#### **§16103. Definitions**

\* \* \*

*Family*—the basic family unit consists of one or more adults and children, if any, related by blood, marriage, adoption, and residence in the same household.

*Family Income*—money or its equivalent in exchange for labor or services, from the sale of goods or property, or as profit from financial investments, benefits, entitlement, and any income that is not from working or from whatever source of gross income, which means all income from whatever source derived including (but not be limited to) the following:

1. interest;
2. rents;
3. royalties;
4. dividends;
5. alimony and separate maintenance payments;
6. annuities;
7. income from life insurance and endowment contracts;
8. pensions; and
9. income from an interest in an estate or trust.

\* \* \*

*Proof of Family Income*—documentation of income, which for the flexible family fund, is a copy of the most recent tax return and all schedule attachments for each family member.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 28:1019 (May 2002), LR 33:1135 (June 2007), LR 37:2584 (September 2011), LR 39:

#### **§16105. Application Process**

A. - B. ...

C. For the application to be complete, the documentation listed in §16103 of this rule, which identifies a qualifying exceptionality and proof of family income for families whose children receive a home and community-based

services waiver, must accompany the application for the flexible family fund, and the application must be signed by the responsible care giver and received by the appropriate agency through the mail.

D. Applications for the flexible family fund shall be screened at the point of initial application to determine whether the child has a qualifying exceptionality, to determine financial eligibility for families whose children receive waiver services, to determine that the child is appropriately served by the agency and to ensure that applications are routed to the appropriate agency. When family income exceeds 650 percent of the federal poverty level and the child is a home and community-based services waiver recipient, the child will be ineligible for participation in the flexible family fund.

E. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 28:1019 (May 2002), LR 33:1135 (June 2007), LR 37:2584 (September 2011), LR 39:

#### **§16107. Determining Children Eligible for the Flexible Family Fund**

A. - F. ...

G. Children who receive a home and community-based services waiver and whose family income is at or less than 650 percent of the federal poverty level are eligible to participate in the flexible family fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 28:1019 (May 2002), LR 33:1135 (June 2007), LR 37:2584 (September 2011), LR 39:

#### **§16109. Children Ineligible for the Flexible Family Fund**

A. - A.2. ...

3. children in residence at the Louisiana School for the Deaf and the Louisiana School for the Visually Impaired; and

4. children receiving a home and community-based services waiver and whose family income exceeds 650 percent of the federal poverty level.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 28:1019 (May 2002), LR 33:1135 (June 2007), LR 37:2584 (September 2011), LR 39:

#### **§16111. Eligibility Determination**

A. - D. ...

E. There shall be financial eligibility criteria for the flexible family fund for recipients of a home and community-based services waiver.

1. DHH will determine if recipients of a home and community-based services waiver meet the financial eligibility requirements for the flexible family fund.



2. Recipients of a home and community-based services waiver whose family income exceeds 650 percent of the federal poverty level will be excluded from the flexible family fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 28:1019 (May 2002), LR 33:1135 (June 2007), LR 37:2584 (September 2011), LR 39:

#### **§16113. Payment Guidelines**

A. - C. ...

D. The family of recipients of a home and community-based services waiver is required to report to OCDD accurate and current family income. If a flexible family fund recipient becomes certified for a home and community-based services waiver, the family is required to report this change in status to OCDD and submit proof of family income. Documentation must be received by OCDD within 30 days of the change in income or home and community-based services waiver recipient status.

E. If it is discovered that the family of the recipient of a home and community-based services waiver sent in inaccurate family income eligibility documentation or that the family did not update OCDD with changes in income, and the recipient no longer meets the financial eligibility requirements as defined in §16111 of this rule, OCDD may follow-up with recoupment of funds paid during the period of ineligibility. If it is discovered that the family of the flexible family fund recipient did not update OCDD of certification of home and community-based services and the recipient did not meet the family financial eligibility requirements §16111 of this rule, OCDD may follow-up with recoupment of funds paid during the period of ineligibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 28:1019 (May 2002), LR 33:1135 (June 2007), LR 37:2584 (September 2011), LR 39:

#### **§16115. Terminations**

A. - A.6. ...

7. failure to comply with the provisions of the individual agreement or the flexible family fund, including the requirement to maintain quarterly contact with the agency administering the flexible family fund and the requirement to provide required documentation, including proof of income for families of children receiving a home and community-based services waiver;

8. child's exceptionality or degree of severity no longer meets eligibility criteria;

9. child attains age 18 years;

10. responsible care giver fails to maintain the child in an approved educational program; or

11. income for the family of the child receiving a home and community-based services waiver exceeds 650 percent of the federal poverty level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 28:1019 (May 2002), LR 33:1135 (June 2007), LR 37:2584 (September 2011), LR 39:

Interested persons may submit written comments to Laura Brackin, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. She is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at OCDD state office and regional offices and Human Services Authorities and Districts.

Kathy H. Kliebert  
Interim Secretary

1305#027

### **DECLARATION OF EMERGENCY**

#### **Student Financial Assistance Commission Office of Student Financial Assistance**

##### **Scholarship/Grant Programs**

Taylor Opportunity Program for Students (LAC 28:IV.703)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend and re-promulgate the rules of the Scholarship/Grant programs [R.S. 17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17:3042.1.1-3042.8, R.S. 17:3048.1, and R.S. 56:797.D(2)].

This rulemaking adds AP Human Geography as an equivalent to World Geography in the Taylor Opportunity Program for Students (TOPS) core curriculum.

This Declaration of Emergency is effective April 18, 2013, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG13146E)

#### **Title 28**

#### **EDUCATION**

#### **Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs**

#### **Chapter 7. Taylor Opportunity Program for Students (TOPS) Opportunity, Performance, and Honors Awards**

#### **§703. Establishing Eligibility**

A. - A.5.a.ii.(a). ...

(b). For students graduating in academic year (high school) 2006-2007 through the 2008-2009 academic year (high school), for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course	Equivalent (Substitute) Course
Physical Science	Integrated Science
Algebra I	Algebra I, Parts 1 and 2, Integrated Mathematics I
Applied Algebra IA and IB	Applied Mathematics I and II
Algebra I, Algebra II and Geometry	Integrated Mathematics I, II and III

Core Curriculum Course	Equivalent (Substitute) Course
Algebra II	Integrated Mathematics II
Geometry	Integrated Mathematics III
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III*, Advanced Mathematics II [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Pre-Calculus], Advanced Mathematics II [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math –Functions and Statistics]
Chemistry	Chemistry Com
Fine Arts Survey	Speech III and Speech IV (both units)
Western Civilization	European History
World Geography	AP Human Geography
Civics	AP American Government
*Applied Mathematics III was formerly referred to as Applied Geometry	

(c). For students graduating in academic year (high school) 2009-2010, for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course	Equivalent (Substitute) Course
Physical Science	Integrated Science
Algebra I	Algebra I, Parts 1 and 2, Integrated Mathematics I, Applied Algebra I
Applied Algebra IA and IB	Applied Mathematics I and II
Algebra I, Algebra II and Geometry	Integrated Mathematics I, II and III
Algebra II	Integrated Mathematics II
Geometry	Integrated Mathematics III, Applied Geometry
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III*, Advanced Math—Pre-Calculus**, Advanced Math—Functions and Statistics***
Chemistry	Chemistry Com
Fine Arts Survey	Speech III and Speech IV (both units)
Western Civilization	European History
World Geography	AP Human Geography
Civics	AP American Government
*Applied Mathematics III was formerly referred to as Applied Geometry	
**Advanced Math—Pre-Calculus was formerly referred to as Advanced Mathematics II	
***Advanced Math—Functions and Statistics was formerly referred to as Advanced Mathematics II	

(d). For students graduating in academic year (high school) 2010-2011 and after, for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course	Equivalent (Substitute) Course
Physical Science	Integrated Science
Algebra I	Algebra I, Parts 1 and 2, Integrated Mathematics I, Applied Algebra I
Applied Algebra IA and IB	Applied Mathematics I and II
Algebra I, Algebra II and Geometry	Integrated Mathematics I, II and III

Core Curriculum Course	Equivalent (Substitute) Course
Algebra II	Integrated Mathematics II
Geometry	Integrated Mathematics III, Applied Geometry
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III*, Advanced Math—Pre-Calculus**, Advanced Math—Functions and Statistics***
Chemistry	Chemistry Com
Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology or Agriscience I and II (both for 1 unit;	Anatomy and Physiology
Fine Arts Survey	Speech III and Speech IV (both units)
Western Civilization	European History
World Geography	AP Human Geography
Civics	AP American Government
*Applied Mathematics III was formerly referred to as Applied Geometry	
**Advanced Math—Pre-Calculus was formerly referred to as Advanced Mathematics II	
***Advanced Math—Functions and Statistics was formerly referred to as Advanced Mathematics II	

A.5.a.ii.i(a). - J.4.b.ii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 32:2239 (December 2006), LR 33:435 (March 2007), LR 33:2357 (November 2007), LR 33:2612 (December 2007), LR 34:1389 (July 2008), LR 35:228 (February 2009), LR 36:312 (February 2010), LR 36:490 (March 2010), LR 36:2269 (October 2010), LR 36:2855 (December 2010), LR 37:2987 (October 2011), LR 38:354 (February 2012), LR 39:

George Badge Eldredge  
General Counsel

1305#002

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing

Abortion Facilities—Licensing Standards  
(LAC 48:I.4403, 4409, and 4415)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 48:I.4403, 4409, and 4415 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2175.1 et seq., and pursuant to

Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

In compliance with the Louisiana Outpatient Abortion Facility Licensing Law, established in Act 391 of the 2001 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing the licensing standards for outpatient abortion facilities (*Louisiana Register*, Volume 29, Number 5). The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions of the May 20, 2003 Rule governing the licensing of abortion facilities in order to clarify the licensing requirements and staffing provisions (*Louisiana Register*, Volume 38, Number 10). This Emergency Rule is being promulgated to continue the provisions of the October 20, 2012 Emergency Rule. This action is being taken to promote the health and welfare of Louisiana citizens by assuring the health and safety of women seeking health care services at licensed abortion facilities.

Effective June 19, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the licensing standards for abortion facilities.

#### **Title 48**

### **PUBLIC HEALTH—GENERAL**

#### **Part I. General Administration**

#### **Subpart 3. Licensing and Certification**

#### **Chapter 44. Abortion Facilities**

#### **§4403. Licensing Requirements**

A. ...

1. An outpatient abortion facility shall be in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including DHH rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter related to abortion or abortion procedures.

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:705 (May 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

#### **§4409. Personnel**

A. - A.6. ...

B. Nursing Personnel

1. The outpatient abortion facility shall provide nursing services.

2. The nursing services shall be provided under the direction of a registered nurse.

3. There shall be a plan of administrative authority with delineation of responsibilities and duties for each category of nursing personnel.

4. The number of nursing personnel on duty shall be sufficient to meet the needs of the patient(s) in the facility. An outpatient abortion facility shall have at least one licensed nurse on duty at all times when there is a patient in the facility who is receiving or recovering from an abortion.

5. All nurses employed by the facility shall have a current and valid Louisiana nursing license as a registered nurse (RN) or licensed practical nurse (LPN), as appropriate. The facility shall verify and maintain documentation of the nursing license in the personnel file.

6. All licensed nurses shall have current documentation in their personnel file of successfully completing a basic life support course.

7. Nursing care policies and procedures shall be in writing and be consistent with accepted nursing standards. Policies shall be developed for all nursing service procedures provided at the facility. The procedures shall be reviewed at least annually and revised as necessary.

8. A formalized program of in-service training and evaluation for competency shall be developed for all categories of nursing personnel and for all nursing services provided at the facility. Training related to required job skills shall be provided to nursing personnel. The facility shall maintain documentation of the training provided and evaluation for competency in the personnel file.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:707 (May 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

#### **§4415. Patient Records and Reports**

A. - A.1. ...

2. The department is entitled to access all books, records, or other documents maintained by or on behalf of the facility on the licensed premises to the extent necessary to ensure compliance with this Chapter 44. Ensuring compliance includes permitting photocopying by the department or providing photocopies to the department of any records or other information by or on behalf of the department as necessary to determine or verify compliance with this Chapter.

A.3 - E.2.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:708 (May 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert  
Interim Secretary

1305#047

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing and Office of Behavioral Health

#### Behavioral Health Services—Supplemental Payments (LAC 50:XXXIII.Chapter 161)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health adopts LAC 50:XXXIII.Chapter 161 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions to implement a coordinated behavioral health services system under the Medicaid Program which provides coverage of behavioral health services to children and adults through the Louisiana Behavioral Health Partnership (*Louisiana Register*, Volume 38, Number 2).

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health promulgated an Emergency Rule which amended the provisions governing behavioral health services in order to establish supplemental Medicaid payments for state-owned and operated behavioral health providers (*Louisiana Register*, Volume 39, Number 2). This Emergency Rule is being promulgated to continue the provisions of the January 20, 2013 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by encouraging continued provider participation in the Medicaid Program and to ensure recipient access to behavioral health services.

Effective May 21, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health adopt provisions to establish supplemental Medicaid payments for state-owned and operated behavioral health providers.

#### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XXXIII. Behavioral Health Services

#### Subpart 17. Supplemental Payments

#### Chapter 161. General Provisions

#### §16101. Qualifying Criteria

A. Effective for dates of service on or after January 20, 2013, providers of behavioral health services may qualify for supplemental payments for services rendered to Medicaid recipients. To qualify for the supplemental payment, the behavioral health provider must be:

1. licensed as necessary by the state of Louisiana;
2. enrolled as a Medicaid provider; and
3. a government-owned and operated entity or a quasi-governmental entity.

B. Providers of the following services shall be eligible to receive supplemental payments:

1. providers furnishing services thru a Statewide Management Organization;
2. children's mental health services;
3. behavioral health services;
4. home and community-based waiver services;
5. psychiatric residential treatment facility services;
6. therapeutic group home services;
7. substance abuse services; and
8. local government juvenile justice programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 39:

#### §16103. Payment Methodology

A. The supplemental payment shall be calculated in a manner that will bring payments for these services up to the community rate level.

1. For purposes of these provisions, the community rate shall be defined as the rates paid by commercial payers for the same service.

B. The behavioral health provider shall periodically furnish satisfactory data for calculating the community rate as requested by the department.

C. The supplemental payment amount shall be determined by establishing a Medicare to community rate conversion factor for the behavioral health provider. At the end of each quarter, for each Medicaid claim paid during the quarter, a Medicare payment amount will be calculated and the Medicare to community rate conversion factor will be applied to the result. Medicaid payments made for the claims paid during the quarter will then be subtracted from this amount to establish the supplemental payment amount for that quarter.

1. The Medicare to community rate conversion factor shall be recalculated at least every three years.

D. The supplemental payments shall be made on a quarterly basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 39:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert  
Interim Secretary

1305#048

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing

#### Disproportionate Share Hospital Payments (LAC 50.V.2501, 2701, 2705 and 2707)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50.V.2501, 2701, 2705, and 2707 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing disproportionate share hospital (DSH) payments to revise the provisions governing non-rural community hospitals and federally mandated statutory hospitals to clarify that hospitals qualifying as a non-rural community hospital in state fiscal year 2007-08 may also qualify in the federally mandated statutory hospital category, and to revise the definition of a non-rural community hospital (*Louisiana Register*, Volume 34, Number 11). In compliance with Act 228 of the 2009 Regular Session of the Louisiana Legislature, the department promulgated an Emergency Rule which amended the provisions governing disproportionate share hospital payments to reallocate any remaining funds from the fiscal year 2009 DSH appropriation to non-rural community hospitals and issue a supplemental payment to these hospitals for their uncompensated care costs (*Louisiana Register*, Volume 35, Number 7).

Act 10 of the 2009 Regular Session of the Louisiana Legislature directed the department to amend the DSH qualifying criteria and payment methodologies for non-rural community hospitals. In compliance with Act 10, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions of the June 26, 2009 Emergency Rule governing supplemental DSH payments to non-rural community hospitals (*Louisiana Register*, Volume 36, Number 1). The department promulgated an Emergency Rule which amended the January 20, 2010 Emergency Rule to amend the provisions governing supplemental DSH payments to non-rural community hospitals in order to redistribute the funds allocated for the state fiscal year 2010 DSH appropriation (*Louisiana Register*, Volume 36, Number 7).

The department promulgated an Emergency Rule which amended the June 29, 2010 Emergency Rule to revise the provisions governing DSH payments to allow for additional payments after completion of the Centers for Medicare and Medicaid Services' mandated independent audit for the state fiscal year (*Louisiana Register*, Volume 37, Number 6). This Emergency Rule is being promulgated to continue the provisions of the June 20, 2011 Emergency Rule. This action is being taken to promote the public health and welfare of uninsured individuals and to ensure their continued access to

health care by assuring that hospitals are adequately reimbursed for furnishing uncompensated care.

Effective June 15, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing DSH payments.

#### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part V. Medical Assistance Program—Hospital Services

##### Subpart 3. Disproportionate Share Hospital Payments

#### Chapter 25. Disproportionate Share Hospital Payment Methodologies

##### §2501. General Provisions

###### A. - B.3....

4. Qualification is based on the hospital's latest filed cost report and related uncompensated cost data as required by the Department. Qualification for small rural hospitals is based on the latest filed cost report. Hospitals must file cost reports in accordance with Medicare deadlines, including extensions. Hospitals that fail to timely file Medicare cost reports and related uncompensated cost data will be assumed to be ineligible for disproportionate share payments. Only hospitals that return timely disproportionate share qualification documentation will be considered for disproportionate share payments. After the final payment during the state fiscal year has been issued, no adjustment will be given on DSH payments with the exception of public state-operated hospitals, even if subsequently submitted documentation demonstrates an increase in uncompensated care costs for the qualifying hospital. After completion of a Center for Medicare and Medicaid Services' (CMS) mandated independent audit for the state fiscal year, additional payments may occur subject to the conditions specified in §2701 B.1, §2705.D.2, and §2707.B. For hospitals with distinct part psychiatric units, qualification is based on the entire hospital's utilization.

###### B.5. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:654 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:65 (January 2010), amended LR 36:512 (March 2010), LR 39:

#### Chapter 27. Qualifying Hospitals

##### §2701. Non-Rural Community Hospitals

###### A. ...

B. DSH payments to a public, non-rural community hospital shall be calculated as follows.

1. Each qualifying public, non-rural community hospital shall certify to the Department of Health and Hospitals its uncompensated care costs. The basis of the certification shall be 100 percent of the hospital's allowable costs for these services, as determined by the most recently filed Medicare/Medicaid cost report. The certification shall be submitted in a form satisfactory to the department no later than October 1 of each fiscal year. The department will claim the federal share for these certified public expenditures. The department's subsequent reimbursement to the hospital shall be in accordance with the qualifying criteria and payment methodology for non-rural community hospitals included in Act 11 of the 2010 Regular Session of

the Louisiana Legislature, and may be more or less than the federal share so claimed. Qualifying public, non-rural community hospitals that fail to make such certifications by October 1 may not receive Title XIX claim payments or any disproportionate share payments until the department receives the required certifications. Adjustments to the certification amounts shall be made in accordance with the final uncompensated care costs as calculated per the CMS mandated audit for the state fiscal year.

C. Private, non-rural community hospitals (other than freestanding psychiatric hospitals) shall be reimbursed as follows:

1. If the hospital's qualifying uninsured cost is less than 4 percent of total hospital cost, no payment shall be made.

2. If the hospital's qualifying uninsured cost is equal to or greater than 4 percent of total hospital cost, but less than 7 percent, the payment shall be 50 percent of an amount equal to the difference between the total qualifying uninsured cost as a percent of total hospital cost and 4 percent of total hospital cost.

3. If the hospital's qualifying uninsured cost is equal to or greater than 7 percent of total hospital cost, but less than or equal to 10 percent, the payment shall be 80 percent of an amount equal to the difference between the total qualifying uninsured cost as a percent of total hospital cost and 4 percent of total hospital cost.

4. If the hospital's qualifying uninsured cost is greater than 10 percent of total hospital cost, the payment shall be 90 percent of qualifying uninsured cost for the portion in excess of 10 percent of total hospital cost and 80 percent of an amount equal to 5 percent of total hospital cost.

5. Qualifying uninsured cost as used for this distribution shall mean the hospital's total charges for care provided to uninsured patients multiplied by the hospital's cost-to-charge ratio as required by the CMS DHS audit rule for the applicable cost report period.

D. The department shall determine each qualifying hospital's uninsured percentage on a hospital-wide basis utilizing charges for dates of service from July 1, 2009 through June 30, 2010.

1. - 5. Repealed.

E. Hospitals shall submit supporting patient specific data in a format specified by the department, reports on their efforts to collect reimbursement for medical services from patients to reduce gross uninsured costs and their most current year-end financial statements. Those hospitals that fail to provide such statements shall receive no payments and any payment previously made shall be refunded to the department. Submitted hospital charge data must agree with the hospital's monthly revenue and usage reports which reconcile to the monthly and annual financial statements. The submitted data shall be subject to verification by the department before DSH payments are made.

F. In the event that the total payments calculated for all recipient hospitals are anticipated to exceed the total amount appropriated, the department shall reduce payments on a pro rata basis in order to achieve a total cost that is not in excess of the amounts appropriated for this purpose. Any funding not distributed per the methodology outlined in Paragraphs

C.1-C.5 above shall be reallocated to these qualifying hospitals based on their reported uninsured costs. The \$10,000,000 appropriation for the non-rural community hospital pool shall be effective only for state fiscal year 2011 and distributions from the pool shall be considered nonrecurring.

G. Of the total appropriation for the non-rural community hospital pool, \$1,000,000 shall be allocated to public and private non-rural community hospitals with a distinct part psychiatric unit and \$1,000,000 shall be allocated to freestanding psychiatric hospitals.

1. To qualify for this payment hospitals must have uninsured cost as defined in §2701.C.5 equal to or greater than 4 percent of total hospital cost and:

a. be a public or private non-rural community hospital, as defined in §2701.A. that has a Medicaid enrolled distinct part psychiatric unit; or

b. enrolled in Medicaid as a freestanding psychiatric hospital that pursuant to 42 CFR 441.151 is accredited by the Joint Commission on the Accreditation of Healthcare Organizations.

2. Payment shall be calculated by:

a. Dividing each qualifying hospital's distinct part psychiatric unit's uninsured days by the sum of all qualifying psychiatric unit's uninsured days and multiplying by \$1,000,000.

b. Dividing each qualifying freestanding psychiatric hospital's uninsured days by the sum of all qualifying freestanding psychiatric hospital's uninsured days and multiplying by \$1,000,000.

H. The DSH payment shall be made as an annual lump sum payment.

I. Hospitals qualifying as non-rural community hospitals in state fiscal year 2007-2008 and subsequent years may also qualify in the federally mandated statutory hospital category.

J. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:655 (April 2008), amended LR 34:2402 (November 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

## **§2705. Small Rural Hospitals**

A. - D.1.b. ...

2. Additional payments shall only be made after finalization of the CMS mandated DSH audit for the state fiscal year. Payments shall be limited to the aggregate amount recouped from small rural hospitals based on these reported audit results. If the small rural hospitals' aggregate amount of underpayments reported per the audit results exceeds the aggregate amount overpaid, the payment redistribution to underpaid shall be paid on a pro rata basis calculated using each hospital's amount underpaid divided by the sum of underpayments for all small rural hospitals.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:657 (April 2008), amended by the

**§2707. Public State-Operated Hospitals**

A. ...

B. DSH payments to individual public state-owned or operated hospitals shall be up to 100 percent of the hospital's net uncompensated costs. Final payment shall be made in accordance with final uncompensated care costs as calculated per the CMS mandated audit for the state fiscal year.

C. – D.2.d....

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:658 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert  
Interim Secretary

1305#050

**DECLARATION OF EMERGENCY**

**Department of Health and Hospitals  
Bureau of Health Services Financing**

**Disproportionate Share Hospital Payments  
Community Hospitals  
(LAC 50.V.2701)**

The Department of Health and Hospitals, Bureau of Health Services Financing repeals LAC 50.V.2701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 13 of the 2012 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing disproportionate share hospital (DSH) payments to revise the provisions governing non-rural community hospitals and federally mandated statutory hospitals to clarify that hospitals qualifying as a non-rural community hospital in state fiscal year 2007-08 may also qualify in the federally mandated statutory hospital category,

and to revise the definition of a non-rural community hospital (*Louisiana Register*, Volume 34, Number 11).

Due to a budgetary shortfall in state fiscal year 2013, the department promulgated an Emergency Rule which amended the provisions governing DSH payments to non-rural community hospitals in order to eliminate the community hospital psychiatric DSH pool (*Louisiana Register* Volume 39, Number 1). This Emergency Rule is being promulgated to continue the provision of the February 1, 2013 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective June 2, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing disproportionate share hospital payments to non-rural community hospitals.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part V. Medical Assistance Program—Hospital Services**

**Subpart 3. Disproportionate Share Hospital Payments**

**Chapter 27. Qualifying Hospitals**

**§2701. Non-Rural Community Hospitals**

A. - J. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:655 (April 2008), amended LR 34:2402 (November 2008), promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert  
Interim Secretary

1305#049

**DECLARATION OF EMERGENCY**

**Department of Health and Hospitals  
Bureau of Health Services Financing**

**Home and Community-Based Services Waivers**

**Children's Choice**

**Money Follows the Person Rebalancing**

**Demonstration Extension**

**(LAC 50:XXI.11107)**

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend LAC 50:XXI.11107 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum

period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities adopted provisions in the Children's Choice Waiver for the allocation of additional waiver opportunities for the Money Follows the Person Rebalancing Demonstration Program (*Louisiana Register*, Volume 35, Number 9). The department promulgated an Emergency Rule which amended the provisions of the Children's Choice Waiver to provide for the allocation of waiver opportunities for children who have been identified by the Office for Citizens with Developmental Disabilities regional offices and human services authorities and districts as meeting state-funded family support criteria for priority level 1 and 2, and needing more family support services than what is currently available through state-funded family support services (*Louisiana Register*, Volume 36, Number 9).

The allocation of opportunities for the Money Follows the Person Rebalancing Demonstration Program was scheduled to end September 30, 2011. Section 2403 of the Affordable Care Act of 2010 authorized an extension of the Money Follows the Person Rebalancing Demonstration Program until September 30, 2016. The department promulgated an Emergency Rule which amended the provisions of the Children's Choice Waiver in order to allow allocation of waiver opportunities until September 30, 2016 (*Louisiana Register*, Volume 37, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 20, 2011 Emergency Rule. This action is being taken to secure enhanced federal funding.

Effective May 27, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend the provisions governing the allocation of opportunities in the Children's Choice Waiver.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

## **Part XXI. Home and Community-Based Services**

### **Waivers**

#### **Subpart 9. Children's Choice**

### **Chapter 111. General Provisions**

#### **§11107. Allocation of Waiver Opportunities**

##### **A. - B. ...**

1. The MFP Rebalancing Demonstration will stop allocation of opportunities on September 30, 2016.

a. In the event that an MFP Rebalancing Demonstration opportunity is vacated or closed before September 30, 2016, the opportunity will be returned to the MFP Rebalancing Demonstration pool and an offer will be made based upon the approved program guidelines.

b. In the event that an MFP Rebalancing Demonstration opportunity is vacated or closed after September 30, 2016, the opportunity will cease to exist.

##### **C. - C.7. ...**

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 35:1892 (September 2009), amended LR 39:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert  
Interim Secretary

1305#051

## **DECLARATION OF EMERGENCY**

### **Department of Health and Hospitals Bureau of Health Services Financing**

Inpatient Hospital Services  
Non-Rural, Non-State Public Hospitals  
Reimbursement Methodology  
(LAC 50:V.963)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.963 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in state fiscal year 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for inpatient hospital services to reduce the reimbursement rates for inpatient hospital services rendered by non-rural, non-state hospitals (*Louisiana Register*, Volume 37, Number 7).

The department promulgated an Emergency Rule which amended the provisions governing inpatient hospital services to provide supplemental Medicaid payments to qualifying non-rural, non-state public hospitals (*Louisiana Register*, Volume 38, Number 10). This Emergency Rule is being promulgated to continue the provisions of the October 1, 2012 Emergency Rule. This action is being taken to secure new federal funding and to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation in the Hospital Program.

Effective May 31, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for inpatient hospital services rendered by non-rural, non-state public hospitals.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

## **Part V. Hospital Services**

### **Subpart 1. Inpatient Hospital Services**

### **Chapter 9. Non-Rural, Non-State Hospitals**

### **Subchapter B. Reimbursement Methodology**

#### **§963. Public Hospitals**

##### **A. - D.2...**

E. In the event that there is allowable non-state public upper payment limit that is not utilized, additional non-state



public hospitals as defined by the department may be qualified for this payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert  
Interim Secretary

1305#053

## **DECLARATION OF EMERGENCY**

### **Department of Health and Hospitals Bureau of Health Services Financing**

Inpatient Hospital Services  
Non-Rural, Non-State Hospitals  
Reimbursement Rate Reduction  
(LAC 50:V.953, 955 and 967)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V. 953,955, and 967 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 13 of the 2012 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in state fiscal year (SFY) 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for inpatient hospital services to reduce the reimbursement rates for inpatient hospital services rendered by non-rural, non-state hospitals (*Louisiana Register*, Volume 37, Number 7).

In anticipation of a budgetary shortfall in state fiscal year 2013 as a result of the reduction in the state's disaster recovery Federal Medical Assistance Percentage (FMAP) rate, the department promulgated an Emergency Rule which

amended the provisions governing the reimbursement methodology for inpatient hospital services to reduce the reimbursement rates paid to non-rural, non-state hospitals (*Louisiana Register*, Volume 38, Number 8).

Due to a continuing budgetary shortfall in SFY 2013, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to further reduce the reimbursement rates paid to non-rural, non-state hospitals (*Louisiana Register*, Volume 39, Number 1). This Emergency Rule is being promulgated to continue the provisions of the February 1, 2013 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Taking the proposed per diem rate reduction into consideration, the department has carefully reviewed the proposed rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that private (non-state) inpatient hospital services and children's specialty hospital services under the State Plan are available at least to the extent that they are available to the general population in the state.

Effective June 2, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for inpatient hospital services to reduce the reimbursement rates paid to non-rural, non-state hospitals.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part V. Hospital Services**

##### **Subpart 1. Inpatient Hospital Services**

##### **Chapter 9. Non-Rural, Non-State Hospitals**

##### **Subchapter B. Reimbursement Methodology**

##### **§953. Acute Care Hospitals**

A. - R. ...

S. Effective for dates of service on or after February 1, 2013, the inpatient per diem rate paid to acute care hospitals shall be reduced by 1 percent of the per diem rate on file as of January 31, 2013.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended LR 34:877 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), amended LR 36:1552(July 2010), LR 36:2561 (November, 2010), LR 37:2161 (July 2011), LR 39:

##### **§955. Long Term Hospitals**

A. - I. ...

J. Effective for dates of service on or after February 1, 2013, the inpatient per diem rate paid to long term hospitals shall be reduced by 1 percent of the per diem rate on file as of January 31, 2013.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR: 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), amended LR 36:1554 (July 2010), LR 36:2562 (November, 2010), LR 37:2162 (July 2011), LR 39:

## **§967. Children's Specialty Hospitals**

A. - J. ...

K. Effective for dates of service on or after February 1, 2013, the per diem rates as calculated per §967.A.-C above shall be reduced by 1 percent. Final payment shall be the lesser of allowable inpatient acute care and psychiatric costs as determined by the cost report or the Medicaid discharges or days as specified per §967.A.-C for the period, multiplied by 84.67 percent of the target rate per discharge or per diem limitation as specified per §967.A.-C for the period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, amended LR 36:2562 (November, 2010), LR 37:2162 (July 2011), LR 39:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert  
Interim Secretary

1305#052

## **DECLARATION OF EMERGENCY**

### **Department of Health and Hospitals Bureau of Health Services Financing**

#### **Inpatient Hospital Services—Small Rural Hospitals Low Income and Needy Care Collaboration (LAC 50:V.1125)**

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.1125 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

In compliance with Act 327 of the 2007 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the reimbursement methodology governing state fiscal year 2009 Medicaid payments to small rural hospitals for inpatient acute care services and psychiatric services (*Louisiana Register*, Volume 35, Number 5). The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to provide for a supplemental Medicaid payment to small

rural hospitals that enter into an agreement with a state or local governmental entity for the purpose of providing healthcare services to low income and needy patients (*Louisiana Register*, Volume 37, Number 11). This Emergency Rule is being promulgated to continue the provisions of the October 20, 2011 Emergency Rule. This action is being taken to secure new federal funding and to promote the public health and welfare of Medicaid recipients by ensuring sufficient provider participation in the Hospital Services Program.

Effective June 15, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for inpatient hospital services rendered by small rural hospitals.

## **Title 50**

## **PUBLIC HEALTH—MEDICAL ASSISTANCE**

### **Part V. Hospital Services**

#### **Subpart 1. Inpatient Hospital Services**

#### **Chapter 11. Rural, Non-State Hospitals**

#### **Subchapter B. Reimbursement Methodology**

#### **§1125. Small Rural Hospitals**

A. - D. ...

E. Low Income and Needy Care Collaboration. Effective for dates of service on or after October 20, 2011, quarterly supplemental payments shall be issued to qualifying non-state acute care hospitals for inpatient services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-state hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement.

a. A non-state hospital is defined as a hospital which is owned or operated by a private entity.

b. A Low Income and Needy Care Collaboration Agreement is defined as an agreement between a hospital and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

2. Each qualifying hospital shall receive quarterly supplemental payments for the inpatient services rendered during the quarter. Quarterly payment distribution shall be limited to one-fourth of the lesser of:

a. the difference between each qualifying hospital's inpatient Medicaid billed charges and Medicaid payments the hospital receives for covered inpatient services provided to Medicaid recipients. Medicaid billed charges and payments will be based on a 12 consecutive month period for claims data selected by the department; or

b. for hospitals participating in the Medicaid Disproportionate Share Hospital (DSH) Program, the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:955 (May 2009), amended LR 39:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O.

Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert  
Interim Secretary

1305#054

## **DECLARATION OF EMERGENCY**

### **Department of Health and Hospitals Bureau of Health Services Financing**

Outpatient Hospital Services  
Diabetes Self-Management Training  
(LAC 50:V.Chapter 63)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:V.Chapter 63 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Act 11 of the 2010 Regular Session of the Louisiana Legislature authorized the Department of Health and Hospitals, through its primary and preventive care activity, to provide reimbursement to providers for rendering services that will educate and encourage Medicaid enrollees to obtain appropriate preventive and primary care in order to improve their overall health and quality of life. In keeping with the intent of Act 11, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which adopted provisions in the Hospital Program to provide Medicaid reimbursement for diabetes self-management training (DSMT) services rendered in an outpatient hospital setting (*Louisiana Register*, Volume 37, Number 2). It is anticipated that this service will promote improved patient self-management skills which will reduce diabetes-related complications that adversely affect quality of life, and subsequently reduce Medicaid costs associated with the care of recipients diagnosed with diabetes-related illnesses.

The department promulgated an Emergency Rule which amended the February 20, 2011 Emergency Rule to clarify the provisions governing service limits (*Louisiana Register*, Volume 37, Number 6). This Emergency Rule is being promulgated to continue the provisions of the June 20, 2011 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients diagnosed with diabetes and to ultimately reduce the Medicaid costs associated with their care.

Effective June 15, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the Hospital Program to provide coverage for diabetes self-management training services rendered in an outpatient hospital setting.

## **Title 50**

## **PUBLIC HEALTH—MEDICAL ASSISTANCE**

### **Part V. Hospital Services**

#### **Subpart 5. Outpatient Hospital Services**

#### **Chapter 63. Diabetes Education Services**

##### **Subchapter A. General Provisions**

##### **§6301. Introduction**

A. Effective for dates of service on or after February 20, 2011, the department shall provide coverage of diabetes self-management training (DSMT) services rendered to Medicaid recipients diagnosed with diabetes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

##### **§6303. Scope of Services**

A. DSMT services shall be comprised of one hour of individual instruction and nine hours of group instruction on diabetes self-management.

B. Service Limits. Recipients shall receive up to 10 hours of services during the first 12-month period beginning with the initial training date. After the first 12-month period has ended, recipients shall only be eligible for two hours of individual instruction on diabetes self-management per calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

##### **§6305. Provider Participation**

A. In order to receive Medicaid reimbursement, outpatient hospitals must have a DSMT program that meets the quality standards of one of the following accreditation organizations:

1. the American Diabetes Association;
2. the American Association of Diabetes Educators; or
3. the Indian Health Service.

B. All DSMT programs must adhere to the national standards for diabetes self-management education.

1. Each member of the instructional team must:

a. be a certified diabetes educator (CDE) certified by the National Certification Board for Diabetes Educators; or

b. have recent didactic and experiential preparation in education and diabetes management.

2. At a minimum, the instructional team must consist of one of the following professionals who is a CDE:

- a. a registered dietician;
- b. a registered nurse; or
- c. a pharmacist.

3. All members of the instructional team must obtain the nationally recommended annual continuing education hours for diabetes management.

C. Members of the instructional team must be either employed by or have a contract with a Medicaid enrolled outpatient hospital that will submit the claims for reimbursement of outpatient DSMT services rendered by the team.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

## **Subchapter B. Reimbursement**

### **§6311. Reimbursement Methodology**

A. Effective for dates of service on or after February 20, 2011, the Medicaid Program shall provide reimbursement for diabetes self-management training services rendered by qualified health care professionals in an outpatient hospital setting.

B. Reimbursement for DSMT services shall be a flat fee based on the appropriate Healthcare Common Procedure Coding (HCPC) code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert  
Interim Secretary

1305#055

## **DECLARATION OF EMERGENCY**

### **Department of Health and Hospitals Bureau of Health Services Financing**

Outpatient Hospital Services  
Non-Rural, Non-State Hospitals and Children's  
Specialty Hospitals Reimbursement Rate Reduction  
(LAC 50:V.5313, 5317, 5513, 5517,  
5713, 5719, 6115 and 6119)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.5313, §5317, §5513, §5517, §5713, §5719, §6115 and §6119 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 13 of the 2012 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in state fiscal year 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for outpatient hospital services to reduce the reimbursement rates paid to non-rural, non-state hospitals and children's specialty hospitals (*Louisiana Register*, Volume 37, Number 11).

In anticipation of a budgetary shortfall in state fiscal year 2013 as a result of the reduction in the state's disaster recovery Federal Medical Assistance Percentage (FMAP) rate, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for outpatient hospital services to reduce the reimbursement rates paid to non-rural, non-state hospitals and children's specialty hospitals (*Louisiana Register*, Volume 38, Number 8).

Due to a continuing budgetary shortfall, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for outpatient hospital services to further reduce the reimbursement rates paid to non-rural, non-state hospitals (*Louisiana Register*, Volume 39, Number 1). This Emergency Rule is being promulgated to continue the provisions of the February 1, 2013 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Taking the proposed rate reductions into consideration, the department has carefully reviewed the proposed rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that private (non-state) outpatient hospital services and children's specialty hospital services under the State Plan are available at least to the extent that they are available to the general population in the state.

Effective June 2, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for outpatient hospital services to reduce the reimbursement rates.

## **Title 50**

## **PUBLIC HEALTH—MEDICAL ASSISTANCE**

### **Part V. Hospitals**

#### **Subpart 5. Outpatient Hospitals**

#### **Chapter 53. Outpatient Surgery**

#### **Subchapter B. Reimbursement Methodology**

#### **§5313. Non-Rural, Non-State Hospitals**

A. - G. ...

H. Effective for dates of service on or after February 1, 2013, the reimbursement rates paid to non-rural, non-state hospitals for outpatient surgery shall be reduced by 1 percent of the fee schedule on file as of January 31, 2013.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), amended LR 36:1250 (June 2010), LR 36:2041 (September 2010), LR 37:3266 (November 2011), LR 39:

#### **§5317. Children's Specialty Hospitals**

A. - E. ...

F. Effective for dates of service on or after February 1, 2013, the reimbursement rates paid to children's specialty

hospitals for outpatient surgery shall be reduced by 1 percent of the fee schedule on file as of January 31, 2013.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2042 (September 2010), amended LR 37:3266 (November 2011), LR 39:

#### **Chapter 55. Clinic Services**

##### **Subchapter B. Reimbursement Methodology**

###### **§5513. Non-Rural, Non-State Hospitals**

A. - G. ...

H. Effective for dates of service on or after February 1, 2013, the reimbursement rates paid to non-rural, non-state hospitals for outpatient clinic services shall be reduced by 1 percent of the fee schedule on file as of January 31, 2013.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), amended LR 36:1250 (June 2010), LR 36:2042 (September 2010), LR 37:3266 (November 2011), LR 39:

###### **§5517. Children's Specialty Hospitals**

A. - E. ...

F. Effective for dates of service on or after February 1, 2013, the reimbursement rates paid to children's specialty hospitals for outpatient hospital clinic services shall be reduced by 1 percent of the fee schedule on file as of January 31, 2013.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2042 (September 2010), amended LR 37:3266 (November 2011), LR 39:

#### **Chapter 57. Laboratory Services**

##### **Subchapter B. Reimbursement Methodology**

###### **§5713. Non-Rural, Non-State Hospitals**

A. - G. ...

H. Effective for dates of service on or after February 1, 2013, the reimbursement rates paid to non-rural, non-state hospitals for outpatient laboratory services shall be reduced by 1 percent of the fee schedule on file as of January 31, 2013.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), amended LR 36:1250 (June 2010), LR 36:2042 (September 2010), LR 37:3266 (November 2011), LR 39:

###### **§5719. Children's Specialty Hospitals**

A. - E. ...

F. Effective for dates of service on or after February 1, 2013, the reimbursement rates paid to children's specialty hospitals for outpatient clinical diagnostic laboratory services shall be reduced by 1 percent of the fee schedule on file as of January 31, 2013.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2043 (September 2010), amended LR 37:3267 (November 2011), LR 39:

#### **Chapter 61. Other Outpatient Hospital Services**

##### **Subchapter B. Reimbursement Methodology**

###### **§6115. Non-Rural, Non-State Hospitals**

A. - G. ...

H. Effective for dates of service on or after February 1, 2013, the reimbursement rates paid to non-rural, non-state hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services and outpatient hospital facility fees shall be reduced by 1 percent of the rates in effect on January 31, 2013. Final reimbursement shall be at 66.46 percent of allowable cost through the cost settlement process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), amended LR 36:1250 (June 2010), amended LR 36:2043 (September 2010), LR 37:3267 (November 2011), LR 39:

###### **§6119. Children's Specialty Hospitals**

A. - E. ...

F. Effective for dates of service on or after February 1, 2013, the reimbursement fees paid to children's specialty hospitals for outpatient hospital services other than rehabilitation services and outpatient hospital facility fees shall be reduced by 1 percent of the rates in effect on January 31, 2013. Final reimbursement shall be 82.13 percent of allowable cost as calculated through the cost report settlement process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2044 (September 2010), amended LR 37:3267 (November 2011), LR 39:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert  
Interim Secretary

1305#056

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing

Outpatient Hospital Services  
Non-Rural, Non-State Public Hospitals  
Supplemental Payments  
(LAC 50:V.5315, 5515, 5717, 5915 and 6117)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:V.5315, §5515, §5717, §5915 and §6117 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Act 228 of the 2009 Regular Session of the Louisiana Legislature directed the department to issue a supplemental payment to hospitals that demonstrated substantial financial and operational challenges in the aftermath of Hurricanes Katrina, Rita, Gustav and Ike. In compliance with Act 228, the department amended the provisions governing the reimbursement methodology for outpatient hospital services to provide a supplemental Medicaid payment to non-rural, non-state public hospitals (*Louisiana Register*, Volume 36, Number 12).

The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for outpatient hospital services to provide supplemental Medicaid payments to qualifying non-rural, non-state public hospitals for state fiscal year 2013 (*Louisiana Register*, Volume 38, Number 10). This Emergency Rule is being promulgated to continue the provisions of the October 1, 2012 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation in the Hospital Services Program and ensuring recipient access to providers of these medically necessary services.

Effective May 31, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for outpatient hospital services rendered by non-rural, non-state public hospitals.

#### Title 50

#### PUBLIC HEALTH—MEDICAL ASSISTANCE

##### Part V. Hospital Services

##### Subpart 5. Outpatient Hospitals

##### Chapter 53. Outpatient Surgery

##### Subchapter B. Reimbursement Methodology

##### §5315. Non-Rural, Non-State Public Hospitals

A. Effective for dates of service on or after October 1, 2012, quarterly supplemental payments may be issued to qualifying non-rural, non-state public hospitals for outpatient surgical services rendered during the quarter. Payment amounts may be reimbursed up to the Medicare inpatient upper payment limits as determined in accordance with 42 CFR §447.272.

1. Qualifying criteria. In order to qualify for the quarterly supplemental payment, the non-rural, non-state public acute care hospital must be designated as a major teaching hospital by the department in state fiscal year 2011 and have provided at least 17,000 Medicaid acute care and distinct part psychiatric unit paid days for state fiscal year 2010 dates of service.

2. Each qualifying hospital may receive quarterly supplemental payments for the outpatient services rendered during the quarter. Quarterly payments may be the difference between each qualifying hospital's outpatient Medicaid billed charges and the Medicaid payments the hospital receives for covered outpatient services provided to Medicaid recipients. Medicaid billed charges and payments will be based on a 12 consecutive month period for claims data selected by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2867 (December 2010), amended LR 39:

##### Chapter 55. Clinic Services

##### Subchapter B. Reimbursement Methodology

##### §5515. Non-Rural, Non-State Public Hospitals

A. Effective for dates of service on or after October 1, 2012, quarterly supplemental payments may be issued to qualifying non-rural, non-state public hospitals for clinic services rendered during the quarter. Payment amounts may be reimbursed up to the Medicare inpatient upper payment limits as determined in accordance with 42 CFR §447.272.

1. Qualifying criteria. In order to qualify for the quarterly supplemental payment, the non-rural, non-state public acute care hospital must be designated as a major teaching hospital by the department in state fiscal year 2011 and have provided at least 17,000 Medicaid acute care and distinct part psychiatric unit paid days for state fiscal year 2010 dates of service.

2. Each qualifying hospital may receive quarterly supplemental payments for the outpatient services rendered during the quarter. Quarterly payments may be the difference between each qualifying hospital's outpatient Medicaid billed charges and the Medicaid payments the hospital receives for covered outpatient services provided to Medicaid recipients. Medicaid billed charges and payments will be based on a 12 consecutive month period for claims data selected by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2867 (December 2010), amended LR 39:

##### Chapter 57. Laboratory Services

##### Subchapter B. Reimbursement Methodology

##### §5717. Non-Rural, Non-State Public Hospitals

A. Effective for dates of service on or after October 1, 2012, quarterly supplemental payments may be issued to qualifying non-rural, non-state public hospitals for laboratory services rendered during the quarter. Payment amounts may be reimbursed up to the Medicare inpatient upper payment limits as determined in accordance with 42 CFR §447.272.

1. Qualifying criteria. In order to qualify for the quarterly supplemental payment, the non-rural, non-state public acute care hospital must be designated as a major teaching hospital by the department in state fiscal year 2011 and have provided at least 17,000 Medicaid acute care and distinct part psychiatric unit paid days for state fiscal year 2010 dates of service.

2. Each qualifying hospital may receive quarterly supplemental payments for the outpatient services rendered during the quarter. Quarterly payments may be the difference between each qualifying hospital's outpatient Medicaid billed charges and the Medicaid payments the hospital receives for covered outpatient services provided to Medicaid recipients. Medicaid billed charges and payments will be based on a 12 consecutive month period for claims data selected by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2868 (December 2010), LR 39:

## **Chapter 59. Rehabilitation Services**

### **Subchapter B. Reimbursement Methodology**

#### **§5915. Non-Rural, Non-State Public Hospitals**

A. Effective for dates of service on or after October 1, 2012, quarterly supplemental payments may be issued to qualifying non-rural, non-state public hospitals for rehabilitation services rendered during the quarter. Payment amounts may be reimbursed up to the Medicare inpatient upper payment limits as determined in accordance with 42 CFR §447.272.

1. Qualifying criteria. In order to qualify for the quarterly supplemental payment, the non-rural, non-state public acute care hospital must be designated as a major teaching hospital by the department in state fiscal year 2011 and have provided at least 17,000 Medicaid acute care and distinct part psychiatric unit paid days for state fiscal year 2010 dates of service.

2. Each qualifying hospital may receive quarterly supplemental payments for the outpatient services rendered during the quarter. Quarterly payments may be the difference between each qualifying hospital's outpatient Medicaid billed charges and the Medicaid payments the hospital receives for covered outpatient services provided to Medicaid recipients. Medicaid billed charges and payments will be based on a 12 consecutive month period for claims data selected by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2867 (December 2010), amended LR 39:

## **Chapter 61. Other Outpatient Hospital Services**

### **Subchapter B. Reimbursement Methodology**

#### **§6117. Non-Rural, Non-State Public Hospitals**

A. Effective for dates of service on or after October 1, 2012, quarterly supplemental payments may be issued to qualifying non-rural, non-state public hospitals for outpatient services other than clinic services, diagnostic laboratory services, outpatient surgeries and rehabilitation services rendered during the quarter. Payment amounts may be reimbursed up to the Medicare inpatient upper payment limits as determined in accordance with 42 CFR §447.272.

1. Qualifying criteria. In order to qualify for the quarterly supplemental payment, the non-rural, non-state public acute care hospital must be designated as a major teaching hospital by the department in state fiscal year 2011 and have provided at least 17,000 Medicaid acute care and distinct part psychiatric unit paid days for state fiscal year 2010 dates of service.

2. Each qualifying hospital may receive quarterly supplemental payments for the outpatient services rendered during the quarter. Quarterly payments may be the difference between each qualifying hospital's outpatient Medicaid billed charges and the Medicaid payments the hospital receives for covered outpatient services provided to Medicaid recipients. Medicaid billed charges and payments will be based on a 12 consecutive month period for claims data selected by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2867 (December 2010), amended LR 39:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert  
Interim Secretary

1305#057

## **DECLARATION OF EMERGENCY**

### **Department of Health and Hospitals Bureau of Health Services Financing and Office of Aging and Adult Services**

Personal Care Services—Long-Term  
Policy Clarifications and Service Limit Reduction  
(LAC 50:XV.12901-12909 and 12911-12915)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend LAC 50:XV.12901-12909 and §§12911-12915 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Senate Resolution 180 and House Resolution 190 of the 2008 Regular Session of the Louisiana Legislature directed the department to develop and implement cost control mechanisms to provide the most cost-effective means of financing the Long-Term Personal Care Services (LT-PCS)

Program. In compliance with these legislative directives, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amended the provisions governing the LT-PCS Program to: 1) implement uniform needs-based assessments for authorizing service units; 2) reduce the limit on LT-PCS service hours; 3) mandate that providers must show cause for refusing to serve clients; and 4) incorporate provisions governing an allocation of weekly service hours (*Louisiana Register*, Volume 35, Number 11).

The department promulgated an Emergency Rule which amended the provisions governing long-term personal care services to: 1) establish provisions that address requests for services; 2) revise the eligibility criteria for LT-PCS; 3) clarify the provisions governing restrictions for paid direct care staff and the place of service; and 4) reduce the maximum allowed service hours (*Louisiana Register*, Volume 36, Number 8). The department promulgated an Emergency Rule which amended the provisions of the September 5, 2010 Emergency Rule to clarify the provisions of the Rule (*Louisiana Register*, Volume 36, Number 12). The department promulgated an Emergency Rule which amended the provisions of the December 20, 2010 Emergency Rule to further clarify the provisions of the Rule (*Louisiana Register*, Volume 37, Number 4). The department promulgated an Emergency Rule which amended the provisions of the April 20, 2011 Emergency Rule to bring these provisions in line with current licensing standards (*Louisiana Register*, Volume 37, Number 11). The department promulgated an Emergency Rule which amended the November 20, 2011 Emergency Rule to clarify the provisions governing the staffing requirements for LT-PCS (*Louisiana Register*, Volume 38, Number 1). The January 20, 2012 Emergency Rule was published with an error in the effective date and repromulgated with an editor's note in the February 2012 *Louisiana Register* (*Louisiana Register*, Volume 38, Number 2). The department promulgated an Emergency Rule which amended the January 20, 2012 Emergency Rule to clarify provisions governing the place of service delivery (*Louisiana Register*, Volume 38, Number 2). This Emergency Rule is being promulgated to continue the provisions of the February 20, 2012 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective June 18, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend the provisions governing long-term personal care services.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XV. Services for Special Populations**

##### **Subpart 9. Personal Care Services**

##### **Chapter 129. Long Term Care**

##### **§12901. General Provisions**

A. The purpose of personal care services is to assist individuals with functional impairments with their daily living activities. Personal care services must be provided in accordance with an approved service plan and supporting documentation. In addition, personal care services must be coordinated with the other Medicaid and non-Medicaid services being provided to the recipient and will be considered in conjunction with those other services.

B. Each recipient requesting or receiving long-term personal care services (LT-PCS) shall undergo a functional eligibility screening utilizing an eligibility screening tool called the level of care eligibility tool (LOCET), or a subsequent eligibility tool designated by the Office of Aging and Adult Services (OAAS).

C. Each LT-PCS applicant/recipient shall be assessed using a uniform assessment tool called the minimum data set-home care (MDS-HC) or a subsequent assessment tool designated by OAAS. The MDS-HC is designed to verify that an individual meets eligibility qualifications and to determine resource allocation while identifying his/her need for support in performance of activities of daily living (ADLs) and instrumental activities of daily living (IADLs). The MDS-HC assessment generates a score which measures the recipient's degree of self-performance of late-loss activities of daily living during the period just before the assessment.

1. The late-loss ADLs are eating, toileting, transferring and bed mobility. An individual's assessment will generate a score which is representative of the individual's degree of self-performance on these four late-loss ADLs.

2. - 7. Repealed.

D. Based on the applicant/recipient's uniform assessment score, he/she is assigned to a level of support category and is eligible for a set allocation of weekly service hours associated with that level.

1. If the applicant/recipient disagrees with his/her allocation of weekly service hours, the applicant/recipient or his/her responsible representative may request a fair hearing to appeal the decision.

2. The applicant/recipient may qualify for more hours if it can be demonstrated that:

a. one or more answers to the questions involving late-loss ADLs are incorrect as recorded on the assessment; or

b. he/she needs additional hours to avoid entering into a nursing facility.

E. Requests for personal care services shall be accepted from the following individuals:

1. a Medicaid recipient who wants to receive personal care services;

2. an individual who is legally responsible for a recipient who may be in need of personal care services; or

3. a responsible representative designated by the recipient to act on his/her behalf in requesting personal care services.

F. Each recipient who requests PCS has the option to designate a responsible representative. For purposes of these provisions, a responsible representative shall be defined as the person designated by the recipient to act on his/her behalf in the process of accessing and/or maintaining personal care services.

1. The appropriate form authorized by OAAS shall be used to designate a responsible representative.

a. The written designation of a responsible representative does not give legal authority for that individual to independently handle the recipient's business without his/her involvement.

b. The written designation is valid until revoked by the recipient. To revoke the written designation, the



revocation must be submitted in writing to OAAS or its designee.

2. The functions of a responsible representative are to:
  - a. assist and represent the recipient in the assessment, care plan development and service delivery processes; and
  - b. to aid the recipient in obtaining all necessary documentation for these processes.

3 - 4. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:911 (June 2003), amended LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 32:2082 (November 2006), LR 34:2577 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2450 (November 2009), LR 39:

### **§12902. Participant Direction Option**

A. The Office of Aging and Adult Services implements a pilot program, the Louisiana Personal Options Program (La POP), which will allow recipients who receive long term personal care services (LT-PCS) to have the option of utilizing an alternative method to receive and manage their services. Recipients may direct and manage their own services by electing to participate in La POP, rather than accessing their services through a traditional personal care agency.

1. La POP shall be implemented through a phase-in process in Department of Health and Hospitals administrative regions designated by OAAS.

A.2. - B.1. ...

2. With the assistance of a services consultant, participants develop a personal support plan based on their approved plan of care and choose the individuals they wish to hire to provide the services.

C. - E.1. ...

2. Change in Condition. The participant's ability to direct his/her own care diminishes to a point where he/she can no longer do so and there is no responsible representative available to direct the care.

3. Misuse of Monthly Allocation of Funds. The LA POP participant or his/her responsible representative uses the monthly budgeted funds to purchase items unrelated to personal care needs or otherwise misappropriate the funds.

4. Failure to Provide Required Documentation. The participant or his/her responsible representative fails to complete and submit employee time sheets in a timely and accurate manner, or provide required documentation of expenditures and related items as prescribed in the Louisiana Personal Options Program's roles and responsibility agreement.

5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2578 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:

### **§12903. Covered Services**

A. Personal care services are defined as those services that provide assistance with the distinct tasks associated with the performance of the activities of daily living (ADLs) and the instrumental activities of daily living (IADLs). Assistance may be either the actual performance of the personal care task for the individual or supervision and prompting so the individual performs the task by him/herself. ADLs are those personal, functional activities required by the recipient. ADLs include tasks such as:

1. - 5. ...

6. ambulation;
7. toileting; and
8. bed mobility.

B. IADLs are those activities that are considered essential, but may not require performance on a daily basis. IADLs cannot be performed in the recipient's home when he/she is absent from the home. IADLs include tasks such as:

1. light housekeeping;
2. food preparation and storage;
3. shopping;
4. laundry;
5. assisting with scheduling medical appointments when necessary;
6. accompanying the recipient to medical appointments when necessary;
7. assisting the recipient to access transportation;
8. reminding the recipient to take his/her medication as prescribed by the physician; and
9. medically non-complex tasks where the direct service worker has received the proper training pursuant to R.S. 37:1031-1034.

C. Emergency and nonemergency medical transportation is a covered Medicaid service and is available to all recipients. Non-medical transportation is not a required component of personal care services. However, providers may choose to furnish transportation for recipients during the course of providing personal care services. If transportation is furnished, the provider agency must accept any liability for their employee transporting a recipient. It is the responsibility of the provider agency to ensure that the employee has a current, valid driver's license and automobile liability insurance.

1. La POP participants may choose to use some of their monthly budget to purchase non-medical transportation.

a. If transportation is furnished, the participant must accept all liability for their employee transporting them. It is the responsibility of the participant to ensure that the employee has a current, valid driver's license and automobile liability insurance.

D. ...

E. La POP participants may choose to use their services budgets to pay for items that increase their independence or substitute for their dependence on human assistance. Such items must be purchased in accordance with the policies and procedures established by OAAS.

F. Personal care services may be provided by one worker for up to three long-term personal care service

recipients who live together and who have a common direct service provider.

**G. Repealed.**

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2578 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:

**§12905. Eligibility Criteria**

**A. ...**

B. Recipients must meet the eligibility criteria established by OAAS or its designee. Personal care services are medically necessary if the recipient:

1. meets the medical standards for admission to a nursing facility and requires limited assistance with at least one or more activities of daily living;

**B.2. - D. ...**

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of the Secretary and Office of Aging and Adult Services, LR 32:2082 (November 2006), LR 34:2579 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:

**§12907. Recipient Rights and Responsibilities**

**A. - A.2. ...**

3. training the individual personal care worker in the specific skills necessary to maintain the recipient's independent functioning while maintaining him/her in the home;

4. developing an emergency component in the plan of care that includes a list of personal care staff who can serve as back-up when unforeseen circumstances prevent the regularly scheduled worker from providing services;

**5. - 9. ...**

B. Changing Providers. Recipients may request to change PCS agencies without cause once after each three month interval during the service authorization period. Recipients may request to change PCS providers with good cause at any time during the service authorization period. *Good cause* is defined as the failure of the provider to furnish services in compliance with the plan of care. *Good cause* shall be determined by OAAS or its designee.

C. In addition to these rights, a La POP participant has certain responsibilities, including:

**1. ...**

2. notifying the services consultant at the earliest reasonable time of admission to a hospital, nursing facility, rehabilitation facility or any other institution;

**2.a. - 8. ...**

9. training the direct service worker in the specific skills necessary to maintain the participant's independent functioning to remain in the home;

**10. - 13. ...**

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:2832 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2579 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:

**§12909. Standards for Participation**

**A. - A.1.c. ...**

d. any federal or state laws, Rules, regulations, policies and procedures contained in the Medicaid provider manual for personal care services, or other document issued by the department. Failure to do may result in sanctions.

**2. ...**

B. In addition, a Medicaid enrolled agency must:

1. maintain adequate documentation as specified by OAAS, or its designee, to support service delivery and compliance with the approved POC and will provide said documentation at the request of the department or its designee; and

2. assure that all agency staff is employed in accordance with Internal Revenue Service (IRS) and Department of Labor regulations.

**3 - 12.c. Repealed.**

C. An LT-PCS provider shall not refuse to serve any individual who chooses his agency unless there is documentation to support an inability to meet the individual's needs, or all previous efforts to provide service and supports have failed and there is no option but to refuse services.

**C.1. - D.2. ...**

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:2832 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2579 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2451 (November 2009), LR 39:

**§12910. La POP Standards for Participation**

A. Direct service workers employed under LA POP must meet the same requirements as those hired by a PCS agency.

B. All workers must be employed in accordance with Internal Revenue Service (IRS) and Department of Labor regulations.

**B.1. - C. Repealed.**

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2580 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and Office of Aging and Adult Services, LR 39:

**§12911. Staffing Requirements**

A. All staff providing direct care to the recipient, whether they are employed by a PCS agency or a recipient participating in La POP, must meet the qualifications for furnishing personal care services per the licensing

regulations. The direct service worker shall demonstrate empathy toward the elderly and persons with disabilities, an ability to provide care to these recipients, and the maturity and ability to deal effectively with the demands of the job.

B. - B.3. Repealed.

C. Restrictions

1. The following individuals are prohibited from being reimbursed for providing services to a recipient:

- a. the recipient's spouse;
- b. the recipient's curator;
- c. the recipient's tutor;
- d. the recipient's legal guardian;
- e. the recipient's designated responsible

representative; or

f. the person to whom the recipient has given representative and mandate authority (also known as Power of Attorney).

D. - E.1.b. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2832 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2580 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:

#### **§12912. Training**

A. Training costs for direct service workers employed by La POP participants shall be paid out of the La POP participant's personal supports plan budget.

B. - H. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2580 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:

#### **§12913. Service Delivery**

A. Personal care services shall be provided in the recipient's home or in another location outside of the recipient's home if the provision of these services allows the recipient to participate in normal life activities pertaining to the IADLs cited in the plan of care. The recipient's home is defined as the place where he/she resides such as a house, an apartment, a boarding house, or the house or apartment of a family member or unpaid primary care-giver. IADLs cannot be performed in the recipient's home when the recipient is absent from the home.

1. - 4. Repealed.

B. The provision of services outside of the recipient's home does not include trips outside of the borders of the state without written prior approval of OAAS or its designee, through the plan of care or otherwise.

C. Participants are not permitted to receive LT-PCS while living in a home or property owned, operated, or controlled by a provider of services who is not related by blood or marriage to the participant.

1 - 3. Repealed.

D. - E. ...

F. It is permissible for an LT-PCS recipient to use his/her approved LT-PCS weekly allotment flexibly provided that it is done so in accordance with the recipient's preferences and

personal schedule and is properly documented in accordance with OAAS policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:913 (June 2003), amended LR 30:2833 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2581 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Financing and the Office of Aging and Adult Services, LR 39:

#### **§12915. Service Limitations**

A. Personal care services shall be limited to up to 32 hours per week. Authorization of service hours shall be considered on a case-by-case basis as substantiated by the recipient's plan of care and supporting documentation.

B. There shall be no duplication of services.

1. Personal care services may not be provided while the recipient is admitted to or attending a program which provides in-home assistance with IADLs or ADLs or while the recipient is admitted to or attending a program or setting where such assistance is available to the recipient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:913 (June 2003), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2581 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2451 (November 2009), LR 39:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert  
Interim Secretary

1305#058

### **EMERGENCY RULE**

#### **Department of Health and Hospitals Bureau of Health Services Financing**

Pregnant Women Extended Services  
Dental Services—Program Termination  
(LAC 50:XV.Chapter 161)

The Department of Health and Hospitals, Bureau of Health Services Financing repeals LAC 50:XV.Chapter 161 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 13 of the 2012 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management,

cost sharing, and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in state fiscal year 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for dental services to reduce the reimbursement rates for services rendered to Medicaid eligible pregnant women (*Louisiana Register*, Volume 37, Number 11). Due to a budgetary shortfall in state fiscal year 2013, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for dental services rendered to Medicaid eligible pregnant women to reduce the reimbursement rates (*Louisiana Register*, Volume 38, Number 7).

Due to a continuing budgetary shortfall in state fiscal year 2013, the department promulgated an Emergency Rule which repealed the provisions governing dental services rendered to Medicaid eligible pregnant women in order to terminate these services (*Louisiana Register*, Volume 39, Number 1). Dental services provided in the Pregnant Women Extended Services Program were an optional covered service under the Medicaid State Plan. This Emergency Rule is being promulgated to continue the provisions of the February 1, 2013 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective June 2, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing repeals the provisions governing dental services rendered to Medicaid eligible pregnant women in order to terminate the program.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XV. Services for Special Populations**

#### **Subpart 13. Pregnant Women Extended Services**

#### **Chapter 161. Dental Services**

#### **§16101. Recipient Qualifications**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:434 (March 2004), amended LR 30:2834 (December 2004), LR 39:

#### **§16103. Provider Responsibilities**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:434 (March 2004), LR 39:

#### **§16105. Covered Services**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:434 (March 2004), amended LR 34:442 (March 2008), LR 34:1419 (July 2008), amended by the

Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1902 (September 2009), LR 39:

#### **§16107. Reimbursement**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:434 (March 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1902 (September 2009), LR 36:2044 (September 2010), LR 37:3270 (November 2011), LR 39:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert  
Interim Secretary

1305#059

#### **POTPOURRI**

#### **Department of Health and Hospitals Bureau of Health Services Financing**

Pregnant Women Extended Services  
Substance Abuse Screening and Intervention Services  
(LAC 50:XV.Chapter 163)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XV.Chapter 163 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides expanded coverage of certain dental services rendered to Medicaid eligible pregnant women who are in need of periodontal treatment as a means of improving the overall health of mothers and their newborns (*Louisiana Register*, Volume 30, Number 3).

As part of the Department of Health and Hospital's ongoing initiative to improve birth outcomes in the state, the Bureau of Health Services Financing, in collaboration with the Office of Behavioral Health, promulgated an Emergency Rule which adopted provisions to establish Medicaid coverage for substance abuse screening and brief intervention services rendered to Medicaid eligible pregnant women (*Louisiana Register*, Volume 37, Number 4). Research has shown that tobacco dependence and substance abuse intervention programs targeted to pregnant women improves the overall health of the mother and reduces the

occurrences of low birth-weight babies and perinatal deaths. It is anticipated that these new services will improve birth outcomes and subsequently reduce Medicaid costs associated with the care of pregnant women and their babies.

The department promulgated an Emergency Rule which amended the April 1, 2011 Emergency Rule in order to require providers to use the Louisiana Health Assessment Referral and Treatment System (LaHART) to receive payment for substance abuse screening and brief intervention services rendered to Medicaid eligible pregnant women (*Louisiana Register*, Volume 38, Number 11). LaHART is a web-based, prenatal behavioral health screening system that screens for tobacco, drug and alcohol abuse as well as domestic violence.

The department promulgated an Emergency Rule which amended the November 20, 2012 Emergency Rule in order to allow additional LaHART screening and brief intervention services during the service limit time period under certain circumstances (*Louisiana Register*, Volume 39, Number 1). This Emergency Rule is being promulgated to continue the provisions of the January 20, 2013 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid eligible pregnant women and to reduce the Medicaid costs associated with the care of pregnant women and their babies.

Effective May 21, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the November 20, 2012 Emergency Rule governing Medicaid coverage of substance abuse screening and brief intervention services rendered to Medicaid eligible pregnant women.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XV. Services for Special Populations**

#### **Subpart 13. Pregnant Women Extended Services**

#### **Chapter 163. Substance Abuse Screening and Intervention Services**

#### **§16301. General Provisions**

A. Effective for dates of service on or after April 1, 2011, the department shall provide coverage of substance abuse screening and brief intervention services rendered to Medicaid eligible pregnant women with the Louisiana Health Assessment Referral and Treatment system.

B. Substance abuse screening and intervention services may be performed with the Louisiana Health Assessment Referral and Treatment system at the discretion of the medical professional providing care to the pregnant woman.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

#### **§16303. Scope of Services**

A. Screening services shall include the screening of pregnant women with the Louisiana Health Assessment Referral and Treatment system for the use of:

1. alcohol;
2. tobacco;
3. drugs; and/or
4. domestic violence.

B. Intervention services shall include a brief 15-30 minute counseling session with a health care professional

intended to help motivate the recipient to develop a plan to moderate or cease their use of alcohol, tobacco, or drugs.

C. Service Limits. Substance abuse screening and intervention services shall be limited to one occurrence each per pregnancy, or once every 270 days.

1. If the patient experiences a miscarriage or fetal death and becomes pregnant within the 270 day period, all LaHART screening and brief intervention services will be reimbursed for the subsequent pregnancy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:  
**§16305. Reimbursement Methodology**

A. Effective for dates of service on or after April 1, 2011, the Medicaid Program shall provide reimbursement for substance abuse screening and intervention services rendered to Medicaid eligible pregnant women.

B. Reimbursement for these services shall be a flat fee based on the appropriate Healthcare Common Procedure Coding (HCPC) code.

C. Effective for dates of service on or after January 1, 2013, Medicaid reimbursement for substance abuse screening and intervention services shall only be made to providers with documented use of the LaHART system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert  
Interim Secretary

1305#060

### **DECLARATION OF EMERGENCY**

#### **Department of Health and Hospitals Bureau of Health Services Financing**

Professional Services Program  
Diabetes Self-Management Training  
(LAC 50:IX.Chapter 7 and 15103)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:IX.Chapter 7 and §15103 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Act 11 of the 2010 Regular Session of the Louisiana Legislature authorized the Department of Health and Hospitals, through its primary and preventive care activity, to provide reimbursement to providers for rendering services

that will educate and encourage Medicaid enrollees to obtain appropriate preventive and primary care in order to improve their overall health and quality of life. In keeping with the intent of Act 11, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the Professional Services Program to provide Medicaid reimbursement for diabetes self-management training (DSMT) services (*Louisiana Register*, Volume 37, Number 2). It is anticipated that this new service will promote improved patient self-management skills which will reduce diabetes-related complications that adversely affect quality of life, and subsequently reduce Medicaid costs associated with the care of recipients diagnosed with diabetes-related illnesses.

The department promulgated an Emergency Rule which amended the provisions of the February 20, 2011 Emergency Rule governing the Professional Services Program in order to clarify the provider participation requirements for the provision of DSMT services (*Louisiana Register*, Volume 37, Number 6). This Emergency Rule is being promulgated to continue the provisions of the June 20, 2011 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients diagnosed with diabetes and to reduce the Medicaid costs associated with their care.

Effective June 15, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing diabetes self-management training services rendered in the Professional Services Program.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part IX. Professional Services Program**

##### **Subpart 1. General Provisions**

##### **Chapter 7. Diabetes Education Services**

##### **§701. General Provisions**

A. Effective for dates of service on or after February 20, 2011, the department shall provide coverage of diabetes self-management training (DSMT) services rendered to Medicaid recipients diagnosed with diabetes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

##### **§703. Scope of Services**

A. DSMT shall be comprised of one hour of individual instruction and nine hours of group instruction on diabetes self-management.

B. Service Limits. Recipients shall receive up to 10 hours of services during the first 12-month period beginning with the initial training. After the first 12-month period has ended, recipients shall only be eligible for two hours of individual instruction on diabetes self-management per calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

##### **§705. Provider Participation**

A. In order to receive Medicaid reimbursement, professional services providers must have a DSMT program that meets the quality standards of one of the following accreditation organizations:

1. the American Diabetes Association;
2. the American Association of Diabetes Educators; or
3. the Indian Health Service.

B. All DSMT programs must adhere to the national standards for diabetes self-management education.

1. Each member of the instructional team must:

a. be a certified diabetes educator (CDE) certified by the National Certification Board for Diabetes Educators; or

b. have recent didactic and experiential preparation in education and diabetes management.

2. At a minimum, the instructional team must consist of one the following professionals who are also a CDE:

- a. a registered dietician;
- b. a registered nurse; or
- c. a pharmacist.

3. All members of the instructional team must obtain the nationally recommended annual continuing education hours for diabetes management.

C. Members of the instructional team must be either employed by or have a contract with a Medicaid enrolled professional services provider that will submit the claims for reimbursement of DSMT services rendered by the team.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

#### **Subpart 15. Reimbursement**

##### **Chapter 151. Reimbursement Methodology**

##### **Subchapter A. General Provisions**

##### **§15103. Diabetes Education Services**

A. Effective for dates of service on or after February 20, 2011, the Medicaid Program shall provide reimbursement for diabetes self-management training services rendered by qualified health care professionals.

B. Reimbursement for DSMT services shall be a flat fee based on the appropriate Healthcare Common Procedure Coding (HCPC) code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert  
Interim Secretary

1305#061

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing

Professional Services Program—Physician Services  
Reclassification of Optometry Services  
(LAC 50:IX.15111 and 15113)

The Department of Health and Hospitals, Bureau of Health Services Financing repeals the February 1982, January 1987, February 1987, and April 1987 Rules governing optometry services, and amends LAC 50:IX.15111 and §15113 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides Medicaid reimbursement for optometry services as an optional covered service under the Medicaid State Plan. Optometrists are classified in the Medicaid State Plan as other licensed practitioners and their services are not considered mandatory physician services.

The American Recovery and Reinvestment Act (ARRA) of 2009 authorized 100 percent federal financial participation to states for the purpose of establishing incentive payments to encourage Medicaid health care providers to adopt, implement, and use certified electronic health records (EHR) technology. The Act does not provide for incentive payments to optometrist unless the services rendered by these practitioners are classified as mandatory physician services under the Medicaid State Plan.

Since the department already provides Medicaid reimbursement to participating optometrist to the same extent as physicians who perform the same eye care services, the department promulgated an Emergency Rule which amended the provisions governing physician services in the Professional Services Program in order to reclassify optometry services as a mandatory physician service under the Medicaid State Plan (*Louisiana Register*, Volume 38, Number 10). This reclassification will allow optometrists to qualify for EHR incentive payments. This Emergency Rule also repeals the February 1982, January 1987, February 1987, and April 1987 Rules governing optometry services, and revises and repromulgates the June 1985 Rule in a codified format for inclusion in the *Louisiana Administrative Code*. The department has now determined that it is necessary to amend the provisions of the October 1, 2012 Emergency Rule in order to revise the formatting to ensure that these provisions are promulgated in a clear and concise manner. This action is being taken to secure new and enhanced federal funding, and to expand provider participation in the EHR Incentive Payment Program.

Effective May 20, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing physician services covered in the Professional Services Program.

## Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part IX. Professional Services Program

##### Subpart 15. Reimbursement

#### Chapter 151. Reimbursement Methodology

##### Subchapter B. Physician Services

##### §15111. General Provisions

A. The reimbursement rates for physician services shall be a flat fee for each covered service as specified on the established Medicaid fee schedule. The reimbursement rates shall be based on a percentage of the Louisiana Medicare Region 99 allowable for a specified year.

##### B. Optometry Services

1. Effective October 1, 2012, eye care services rendered by a participating optometrist, within their scope of optometric practice, shall be classified and reimbursed under the Medicaid State Plan as a mandatory physician service to the same extent, and according to the same standards as physicians who perform the same eye care services.

2. Recipients in the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program are excluded from optometry service limits.

3. The Medicaid Program shall not provide reimbursement for eyeglasses provided to Medicaid recipients 21 years of age or older.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

##### §15113. Reimbursement

A. Effective for dates of service on or after October 15, 2007, the reimbursement for selected physician services shall be 90 percent of the 2007 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount, unless otherwise stipulated.

1. The reimbursement shall remain the same for those services that are currently being reimbursed at a rate that is between 90 percent and 120 percent of the 2007 Louisiana Medicare Region 99 allowable.

2. For those services that are currently reimbursed at a rate above 120 percent of the 2007 Louisiana Medicare Region 99 allowable, effective for dates of service on or after October 15, 2007, the reimbursement for these services shall be reduced to 120 percent of the 2007 Louisiana Medicare Region 99 allowable.

B. Effective for dates of service on or after January 1, 2008, the reimbursement for selected physician services shall be 90 percent of the 2008 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount, unless otherwise stipulated.

1. The reimbursement shall remain the same for those services that are currently being reimbursed at a rate that is between 90 percent and 120 percent of the 2008 Louisiana Medicare Region 99 allowable.

2. For those services that are currently reimbursed at a rate above 120 percent of the 2008 Louisiana Medicare Region 99 allowable, effective for dates of service on or after January 1, 2008, the reimbursement for these services shall be reduced to 120 percent of the 2008 Louisiana Medicare Region 99 allowable.

C. Effective for dates of service on or after August 4, 2009, the reimbursement for all physician services rendered

to recipients 16 years of age or older shall be reduced to 80 percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

1. For those services that are currently reimbursed at a rate below 80 percent of the Louisiana Medicare Region 99 allowable, effective for dates of service on or after August 4, 2009, the reimbursement for these services shall be increased to 80 percent of the Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

2. The following physician services are excluded from the rate adjustment:

- a. preventive medicine evaluation and management;
- b. immunizations;
- c. family planning services; and
- d. select orthopedic reparative services.

3. Effective for dates of service on or after November 20, 2009, the following physician services are excluded from the rate adjustment:

- a. prenatal evaluation and management; and
- b. delivery services.

D. Effective for dates of service on or after January 22, 2010, physician services rendered to recipients 16 years of age or older shall be reduced to 75 percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

1. The following physician services rendered to recipients 16 years of age or older shall be reimbursed at 80 percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount:

- a. prenatal evaluation and management services;
- b. preventive medicine evaluation and management services; and
- c. obstetrical delivery services.

D.2. – D.3.b. Repealed.

E. Effective for dates of service on or after January 22, 2010, all physician services rendered to recipients under the age of 16 shall be reimbursed at 90 percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

1. - 1.c. Repealed.

F. Effective for dates of service on or after January 22, 2010, all physician-administered drugs shall be reimbursed at 90 percent of the 2009 Louisiana Medicare Average Sales Price (ASP) allowable or billed charges, whichever is the lesser amount.

G. Effective for dates of service on or after January 22, 2010, all physician services that are currently reimbursed below the reimbursement rates in §15113.D-F shall be increased to the rates in §15113.D-F.

H. Effective for dates of service on or after December 1, 2010, reimbursement shall be 90 percent of the 2009 Louisiana Medicare Region 99 allowable for the following obstetric services when rendered to recipients 16 years of age and older:

1. vaginal-only delivery (with or without postpartum care);
2. vaginal delivery after previous cesarean (VBAC) delivery; and
3. cesarean delivery following attempted vaginal delivery after previous cesarean delivery. The reimbursement for a cesarean delivery remains at 80 percent of the 2009 Louisiana Medicare Region 99 allowable when

the service is rendered to recipients 16 years of age and older.

I. - K.1. Reserved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1252 (June 2010), amended LR 36:2282 (October 2010), amended LR 37:904 (March 2011), LR 39:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert  
Interim Secretary

1305#044

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing

#### Professional Services Program Physician Services—Reimbursement Rate Reduction (LAC 50:IX.15113)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:IX.15113 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 13 of the 2012 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for physician services to increase the reimbursement rates for obstetric delivery services (*Louisiana Register*, Volume 37, Number 3).

As a result of a budgetary shortfall in state fiscal year 2013, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for physician services to reduce the reimbursement rates and discontinue reimbursement for



certain procedures (*Louisiana Register*, Volume 38, Number 7). The department subsequently amended the provisions of the July 1, 2012 Emergency Rule in order to revise the formatting to ensure that these provisions are promulgated in a clear and concise manner (*Louisiana Register*, Volume 38, Number 10). In compliance with the Patient Protection and Affordable Care Act (PPACA) and federal regulations, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for physician services in order to increase the reimbursement rates (*Louisiana Register*, Volume 39, Number 1).

Due to a continuing budgetary shortfall in state fiscal year 2013, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for physician services in order to further reduce the reimbursement rates (*Louisiana Register*, Volume 39, Number 1). The department has now determined that it is necessary to amend the provisions of the February 1, 2013 Emergency Rule in order to revise the formatting to ensure that these provisions are promulgated in a clear and concise manner. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective May 20, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the February 1, 2013 Emergency Rule governing the reimbursement methodology for physician services.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part IX. Professional Services Program**

#### **Subpart 15. Reimbursement**

#### **Chapter 151. Reimbursement Methodology**

#### **Subchapter B. Physician Services**

#### **§15113. Reimbursement**

A. - H.3. ...

I. - J.4. Reserved.

K. Effective for dates of service on or after February 1, 2013, the reimbursement for certain physician services shall be reduced by 1 percent of the rate in effect on January 31, 2013.

1. Specified primary care services rendered by a physician with a specialty designation of family medicine, internal medicine, or pediatrics shall be excluded from the February 1, 2013 rate reduction. Rates for such services are exempt from the rate reduction, paralleling the January 1, 2013 implementation of Affordable Care Act requirements for Medicaid to reimburse at the Medicare rate for such services rendered in calendar years 2013 and 2014.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1252 (June 2010), amended LR 36:2282 (October 2010), amended LR 37:904 (March 2011), LR 39:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is

responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert  
Interim Secretary

1305#046

### **DECLARATION OF EMERGENCY**

#### **Department of Health and Hospitals Bureau of Health Services Financing**

#### **Professional Services Program Physician Services Reimbursement Rate Reduction (LAC 50:IX.15113)**

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:IX.15113 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by House Bill 1 of the 2012 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for physician services to increase the reimbursement rates for obstetric delivery services (*Louisiana Register*, Volume 37, Number 3).

As a result of a budgetary shortfall in state fiscal year 2013, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for physician services to reduce the reimbursement rates and discontinue reimbursement for certain procedures (*Louisiana Register*, Volume 38, Number 7). The department promulgated an Emergency Rule which amended the provisions of the July 1, 2012 Emergency Rule in order to revise the formatting to ensure that these provisions are promulgated in a clear and concise manner (*Louisiana Register*, Volume 38, Number 10). The department has now determined that it is necessary to amend the provisions of the October 20, 2012 Emergency Rule in order to revise the formatting to ensure that these provisions are promulgated in a clear and concise manner. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective May 20, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the October 20, 2012 Emergency Rule governing the reimbursement methodology for physician services.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part IX. Professional Services Program**

**Subpart 15. Reimbursement**

**Chapter 151. Reimbursement Methodology**

**Subchapter B. Physician Services**

**§15113. Reimbursement**

A. - H.3....

I. Effective for dates of service on or after July 1, 2012, reimbursement shall be as follows for the designated physician services:

1. reimbursement for professional services procedure (consult) codes 99241-99245 and 99251-99255 shall be discontinued;

2. cesarean delivery fees (procedure codes 59514-59515) shall be reduced to equal corresponding vaginal delivery fees (procedure codes 59409-59410); and

3. reimbursement for all other professional services procedure codes, exclusive of Affordable Care Act primary care procedure codes, shall be reduced by 3.4 percent of the rates on file as of June 30, 2012.

J.-K.1. Reserved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1252 (June 2010), amended LR 36:2282 (October 2010), amended LR 37:904 (March 2011), LR 39:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert  
Interim Secretary

1305#045

**DECLARATION OF EMERGENCY**

**Department of Health and Hospitals**  
**Bureau of Health Services Financing**

Rehabilitation Clinics

Termination of Coverage for Recipients 21 and Older  
(LAC 50:XI.103 and 301)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XIII.103 and §301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 13 of the 2012 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this

Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repromulgated the provisions governing the covered services and reimbursement paid to rehabilitation clinics in a codified format for inclusion in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 30, Number 5).

Due to a budgetary shortfall in state fiscal year 2013, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing rehabilitation clinics in order to terminate the coverage and Medicaid reimbursement of services rendered to recipients 21 years of age and older (*Louisiana Register*, Volume 39, Number 1). This Emergency Rule is being promulgated to continue the provisions of the February 1, 2013 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective June 02, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing rehabilitation clinic services rendered to recipients 21 years of age and older in order to terminate coverage of these services.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XI. Clinic Services**

**Subpart 1. Rehabilitation Clinics**

**Chapter 1. General Provisions**

**§103. Services**

A. ...

B. Effective for dates of service on or after February 1, 2013, the department terminates the coverage of all rehabilitation services to recipients 21 years of age and older.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:13 (January 1983), repromulgated for inclusion in LAC, LR 30:1021 (May 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

**Chapter 3. Reimbursement**

**§301. Rehabilitation (Ages 3 and Older)**

A. - B. ...

C. Effective for dates of service on or after February 1, 2013, reimbursement shall not be made for services rendered to recipients 21 years of age and older.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:109 (February 1996), amended LR 23:731 (June 1997), repromulgated for inclusion in LAC, LR

30:1021 (May 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert  
Interim Secretary

1305#062

## **DECLARATION OF EMERGENCY**

### **Department of Health and Hospitals Bureau of Health Services Financing**

#### **Targeted Case Management—HIV Coverage Termination (LAC 50:XV.10505, 10701 and Chapter 119)**

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XV.10505, §10701 and repeals Chapter 119 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 13 of the 2012 Regular Session of the Louisiana Legislature which states: “The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health (OPH) amended the provisions governing the reimbursement of targeted case management (TCM) services rendered by the Office of Public Health in the Nurse Family Partnership Program in order to establish Medicaid payment of uncompensated care costs for services rendered by OPH to Medicaid eligible recipients (*Louisiana Register*, Volume 39, Number 1).

Due to a budgetary shortfall in state fiscal year 2013, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing targeted case management in order to terminate the coverage and Medicaid reimbursement of TCM services rendered to HIV disabled individuals (*Louisiana Register*, Volume 39, Number 1). This Emergency Rule is being promulgated to continue the provisions of the February 1, 2013 Emergency

Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective June 2, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing targeted case management in order to terminate the coverage of services rendered to HIV disabled individuals.

## **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XV. Services for Special Populations**

##### **Subpart 7. Targeted Case Management**

#### **Chapter 105. Provider Participation**

##### **§10505. Staff Education and Experience**

A. - D.2. ...

E. Case Manager Trainee

1. The case management agency must obtain prior approval from the Bureau before a case management trainee can be hired. The maximum allowable caseload for a case manager trainee is 20 recipients. The case management trainee position may be utilized to provide services to the following target populations:

- a. ...
- b. New Opportunities Waiver;
- c. Elderly and Disabled Adult Waiver;
- d. Targeted EPSDT; and
- e. Children’s Choice Waiver.
- f. Repealed.

2. - 2.e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1038 (May 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1608 (September 2006), amended LR 34:663 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

#### **Chapter 107. Reimbursement**

##### **§10701. Reimbursement**

A. - H.3.a. ...

I. Effective for dates of service on or after February 1, 2013, reimbursement shall not be made for case management services rendered to HIV disabled individuals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1040 (May 2004), amended LR 31:2032 (August 2005), amended LR 35:73 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, amended LR 35:1903 (September 2009), amended LR 36:1783 (August 2010), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

#### **Chapter 119. HIV Disabled**

##### **§11901. Introduction**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1043 (May 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

### **§11903. Recipient Requirements**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1043 (May 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

### **§11905. Provider Requirements**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1043 (May 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert  
Interim Secretary

1305#063

## **DECLARATION OF EMERGENCY**

### **Department of Health and Hospitals Bureau of Health Services Financing**

Targeted Case Management—Nurse Family Partnership  
Program Termination  
(LAC 50:XV.10505, 10701 and Chapter 111)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XV.10505, §10701 and repeals Chapter 111 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 13 of the 2012 Regular Session of the Louisiana Legislature which states: “The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health

(OPH) amended the provisions governing the reimbursement of targeted case management (TCM) services rendered by the Office of Public Health in the Nurse Family Partnership Program in order to establish Medicaid payment of uncompensated care costs for services rendered by OPH to Medicaid eligible recipients (*Louisiana Register*, Volume 39, Number 1).

Due to a budgetary shortfall in state fiscal year 2013, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing targeted case management in order to terminate the Nurse Family Partnership Program and Medicaid reimbursement of TCM services to first-time mothers (*Louisiana Register*, Volume 39, Number 1). This Emergency Rule is being promulgated to continue the provisions of the February 1, 2013 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective June 2, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing targeted case management in order to terminate the Nurse Family Partnership Program.

## **Title 50**

## **PUBLIC HEALTH—MEDICAL ASSISTANCE**

### **Part XV. Services for Special Populations**

#### **Subpart 7. Targeted Case Management**

#### **Chapter 105. Provider Participation**

#### **§10505. Staff Education and Experience**

A. ...

B. Case Managers. All case managers must meet one of the following minimum education and experience qualifications:

1. - 3.a. ...

b. Repealed.

4. ...

C. Case Management Supervisors. All case management supervisors must meet one of the following education and experience requirements:

C.1. - E.2.e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1038 (May 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1608 (September 2006), amended LR 34:663 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

#### **Chapter 107. Reimbursement**

#### **§10701. Reimbursement**

A. - I. ...

J. Effective for dates of service on or after February 1, 2013, the department shall terminate the Nurse Family Partnership Program and Medicaid reimbursement of targeted case management services to first-time mothers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1040 (May 2004), amended LR 31:2032 (August 2005), amended LR 35:73 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, amended LR 35:1903 (September 2009), amended LR

36:1783 (August 2010), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

## **Chapter 111. Nurse Family Partnership Program**

### **§11101. Introduction**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1041 (May 2004), amended LR 31:2028 (August 2005), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1036 (June 2008), amended LR 36:1783 (August 2010), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

### **§11103. Recipient Qualifications**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1041 (May 2004), amended LR 31:2028 (August 2005), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1037 (June 2008), amended LR 36:1783 (August 2010), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

### **§11105. Staff Qualifications**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 26:2796 (December 2000), repromulgated for inclusion in LAC, LR 30:1042 (May 2004), amended LR 31:2028 (August 2005), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert  
Interim Secretary

1305#064

## **DECLARATION OF EMERGENCY**

### **Department of Public Safety and Corrections Corrections Services**

#### **Offender Mail and Publications (LAC 22:I.313)**

In accordance with the provisions of R.S. 49:953, the Department of Public Safety and Corrections, Corrections Services, hereby adopts an Emergency Rule for implementation of the amendments of R.S. 15:833(A), 46:1816(B), 14:402(D)(10) and 46:1851-1857, which were

revised by Act No. 799 of the 2012 Regular Legislative Session. Act No. 799 required the revision of department regulation no. C-02-009, "Offender Mail and Publications." Failure to adopt the Rule on an emergency basis will thwart the intent of the legislature, and fail to provide notice to the affected parties that the now prohibited conduct may result in criminal prosecution, disciplinary sanctions and/or cessation or suspension of rights of mail privileges. The department is required, pursuant to the enactment of this new law, to take certain affirmative acts such as promulgating the instant regulation.

For the foregoing reasons, the Department of Public Safety and Corrections, Corrections Services, has determined that the adoption of an Emergency Rule for implementation of amendments to department regulation no. C-02-009, "Offender Mail and Publications," is necessary and hereby provides notice of its Declaration of Emergency effective on April 26, 2013. This Emergency Rule shall be in effect for 120 days or until adoption of the final Rule, whichever occurs first.

## **Title 22**

## **CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT**

### **Part I. Corrections**

#### **Chapter 3. Adult Services**

##### **Subchapter A. General**

#### **§313. Offender Mail and Publications**

##### **A. - H.6. ...**

##### **I. Procedures for Death Row Offenders Correspondence**

1. Pursuant to the provisions of Act No. 799 of the 2012 Regular Session, the following procedures provide for the review and inspection of incoming and outgoing correspondence of death row offenders to ensure no contractual arrangements are being contemplated or in effect that would allow the offender to profit from his crimes of notoriety.

a. All incoming and outgoing general correspondence, including packages, shall be inspected.

b. Incoming and outgoing privileged mail shall be inspected outside the offender's presence when there is reasonable suspicion that contraband is being sent to the offender or from the offender, or the offender is contemplating a contractual arrangement that would result in his receiving any type of profits or proceeds relative to his criminal acts. The warden or deputy warden shall authorize such inspection.

c. In the event it is determined that the offender is contemplating or has established a contractual arrangement, the information shall be immediately reported by the warden to the secretary who shall notify the Attorney General's Office pursuant to established procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:833(A), *Guajardo v. Esteile*, 580 F.2d 748 (5<sup>th</sup> Cir.1978).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 5:4 (January 1979), amended LR 10:803 (October 1984), LR 11:360 (April 1985), amended by the Department of Public Safety and Corrections, Corrections Services, LR 33:851 (May 2007), amended LR 38:830 (March 2012), amended LR 39:

James M. LeBlanc  
Secretary

1305#007

## **DECLARATION OF EMERGENCY**

### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

#### **Partial Opening of Shrimp Season in State Outside Waters**

In accordance with the emergency provisions of R.S. 49:953 and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall have the authority to open or close outside waters by zone each year as it deems appropriate upon inspection of and based upon technical and biological data which indicates that marketable shrimp, in sufficient quantities, are available for harvest, and a declaration of emergency adopted by the Wildlife and Fisheries Commission on December 6, 2012 which authorizes the secretary of the Department of Wildlife and Fisheries to reopen any area closed to shrimping when the closure is no longer necessary, the secretary hereby declares:

That state outside waters south of the inside/outside shrimp line as described in R.S. 56:495 seaward a distance of three nautical miles, from the northwest shore of Caillou Boca at 90 degrees 50 minutes 27 seconds west longitude westward to the Atchafalaya River Ship Channel at Eugene Island as delineated by the channel red buoy line shall reopen to shrimping at 6 a.m. April 16, 2013.

Recent biological samples taken by Office of Fisheries biologists indicate that small white shrimp which have overwintered in these waters from December through the present time have reached marketable sizes and the closure is no longer necessary. Significant numbers of smaller white shrimp still remain in state outside waters west of the Atchafalaya River Ship Channel to the western shore of Freshwater Bayou Canal at 92 degrees 18 minutes 33 seconds west longitude, and this area will remain closed to shrimping until further notice.

Robert J. Barham  
Secretary

1305#001

## **DECLARATION OF EMERGENCY**

### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

#### **Recreational and Commercial Fisheries Closure**

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act, and under the authority of R.S. 56:6.1, the Wildlife and Fisheries Commission hereby closes all commercial fishing, effective immediately May 2, 2013 in the following areas:

Those waters north of 28 degrees 56 minutes 30 seconds north latitude and south of 28 degrees 59 minutes 30 seconds north latitude from the eastern shore of Southwest Pass of the Mississippi River eastward to a line beginning at 28 degrees 59 minutes 30 seconds north latitude and 89 degrees 19 minutes 50 seconds west longitude and ending at 28 degrees 56 minutes 30 seconds north latitude and 89 degrees

23 minutes 00 seconds west longitude, and those waters north of 29 degrees 02 minutes 00 seconds north latitude and south of 29 degrees 02 minutes 20 seconds north latitude from the western shore of South Pass of the Mississippi River westward to 89 degrees 15 minutes 25 seconds west longitude, and those waters north of 28 degrees 59 minutes 40 seconds north latitude and south of 29 degrees 02 minutes 00 seconds north latitude from the western shore of South Pass of the Mississippi River westward to 89 degrees 15 minutes 25 seconds west longitude and southeastward along a line beginning at 29 degrees 02 minutes 00 seconds north latitude and 89 degrees 15 minutes 25 seconds west longitude and ending at 28 degrees 59 minutes 40 seconds north latitude and 89 degrees 10 minutes 15 seconds west longitude, and those waters west of the western shore of South Pass of the Mississippi River south of 28 degrees 59 minutes 40 seconds north latitude bounded by the following coordinates: 1) 28 degrees 59 minutes 15 seconds north latitude and 89 degrees 08 minutes 15 seconds west longitude, 2) 28 degrees 58 minutes 20 seconds north latitude and 89 degrees 10 minutes 00 seconds west longitude, 3) 28 degrees 59 minutes 01 seconds north latitude and 89 degrees 11 minutes 00 seconds west longitude, 4) 28 degrees 59 minutes 40 seconds north latitude and 89 degrees 10 minutes 15 seconds west longitude, and those waters east of the eastern shore of South Pass of the Mississippi River and south of 29 degrees 01 minutes 50 seconds north latitude eastward to a line beginning at 29 degrees 01 minutes 50 seconds north latitude and 89 degrees 07 minutes 20 seconds west longitude and ending at 28 degrees 59 minutes 35 seconds north latitude and 89 degrees 08 minutes 00 seconds west longitude, and those waters adjacent to but not including Northeast Pass and Southeast Pass of the Mississippi River and bounded by the following coordinates: 1) 29 degrees 08 minutes 35 seconds north latitude and 89 degrees 04 minutes 20 seconds west longitude, 2) 29 degrees 08 minutes 15 seconds north latitude and 89 degrees 02 minutes 10 seconds west longitude, 3) 29 degrees 04 minutes 50 seconds north latitude and 89 degrees 04 minutes 10 seconds west longitude, 4) 29 degrees 05 minutes 30 seconds north latitude and 89 degrees 05 minutes 10 seconds west longitude, and those waters south and west of Pass a Loutre of the Mississippi River and east of 89 degrees 05 minutes 35 seconds west longitude bounded by the following coordinates: 1) 29 degrees 11 minutes 25 seconds north latitude and 89 degrees 03 minutes 30 seconds west longitude, 2) 29 degrees 11 minutes 00 seconds north latitude and 89 degrees 02 minutes 25 seconds west longitude, 3) 29 degrees 09 minutes 00 seconds north latitude and 89 degrees 05 minutes 35 seconds west longitude, 4) 29 degrees 11 minutes 00 seconds north latitude and 89 degrees 05 minutes 35 seconds west longitude, and those waters south of North Pass of the Mississippi River bounded by the following coordinates: 1) 29 degrees 11 minutes 35 seconds north latitude and 89 degrees 02 minutes 55 seconds west longitude, 2) 29 degrees 12 minutes 35 seconds north latitude and 89 degrees 01 minutes 05 seconds west longitude, 3) 29 degrees 11 minutes 35 seconds north latitude and 89 degrees 01 minutes 10 seconds west longitude, 4) 29 degrees 11 minutes 10 seconds north latitude and 89 degrees 02 minutes 00 seconds west

longitude, and those state inside and outside waters adjacent to Grand Terre Island bounded by the following coordinates: 1) 29 degrees 18 minutes 20 seconds north latitude and 89 degrees 54 minutes 50 seconds west longitude, 2) 29 degrees 17 minutes 10 seconds north latitude and 89 degrees 53 minutes 50 seconds west longitude, 3) 29 degrees 15 minutes 40 seconds north latitude and 89 degrees 56 minutes 00 seconds west longitude, 4) 29 degrees 17 minutes 00 seconds north latitude and 89 degrees 57 minutes 20 seconds west longitude, and those state inside waters in the upper Barataria Basin north of 29 degrees 26 minutes 00 seconds north latitude and south of 29 degrees 29 minutes 00 seconds north latitude from 89 degrees 50 minutes 00 seconds west longitude westward to 89 degrees 57 minutes 00 seconds west longitude, and that portion of state outside waters seaward a distance of one mile from the inside/outside shrimp line from the eastern shore of Belle Pass at 90 degrees 13 minutes 30 seconds west longitude eastward to the western shore of Caminada Pass at 90 degrees 02 minutes 46.597 seconds west longitude.

Recreational fishing is open in all state inside and outside territorial waters, except in the following areas, where only recreational angling and charter boat angling is allowed: those state inside and outside waters adjacent to Grand Terre Island bounded by the following coordinates: 1) 29 degrees 18 minutes 20 seconds north latitude and 89 degrees 54 minutes 50 seconds west longitude, 2) 29 degrees 17 minutes 10 seconds north latitude and 89 degrees 53 minutes 50 seconds west longitude, 3) 29 degrees 15 minutes 40 seconds north latitude and 89 degrees 56 minutes 00 seconds west longitude, 4) 29 degrees 17 minutes 00 seconds north latitude and 89 degrees 57 minutes 20 seconds west longitude, and those state inside waters in the upper Barataria Basin north of 29 degrees 26 minutes 00 seconds north latitude and south of 29 degrees 29 minutes 00 seconds north latitude from 89 degrees 50 minutes 00 seconds west longitude westward to 89 degrees 57 minutes 00 seconds west longitude, and that portion of state outside waters seaward a distance of one mile from the inside/outside shrimp line from the eastern shore of Belle Pass at 90 degrees 13 minutes 30 seconds west longitude eastward to the western shore of Caminada Pass at 90 degrees 02 minutes 46.597 seconds west longitude.

The Deepwater Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are continuing to be made to minimize the potential threats to fish and other aquatic life.

The Commission hereby grants authority to the Secretary of the Department of Wildlife and Fisheries to open, close, reopen-reclose, broaden or otherwise modify the areas closed and opened to fishing if biological, environmental and technical data indicate the need to do so, or as needed to effectively implement the provisions herein upon notification to the Chairman of the Wildlife and Fisheries Commission.

Ronald "Ronny" Graham  
Chairman

1305#035

## DECLARATION OF EMERGENCY

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### Spring Inshore Shrimp Season Opening Dates

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and shall have the authority to open or close outside waters and to increase the minimum mesh size provided in R.S. 56:499 for any trawl, skimmer net, or butterfly net for the duration of any special shrimp season or regular shrimp season extension, the Wildlife and Fisheries Commission does hereby set a special shrimp season and the 2013 Spring Shrimp Season in Louisiana state waters to open as follows:

That portion of state inside waters from the Mississippi/Louisiana state line to the eastern shore of South Pass of the Mississippi River to open at 6:00 am May 27, 2013, and

That portion of state inside waters from the eastern shore of South Pass of the Mississippi River westward to the eastern shore of Bayou Lafourche to open at 6:00 am May 20, 2013, and,

That portion of state inside waters from the eastern shore of Bayou Lafourche westward to the western shore of Vermilion Bay and Southwest Pass at Marsh Island to open at 6:00 am May 13, 2013, and

That portion of state outside waters south of the inside/outside shrimp line as described in R.S. 56:495 from the Atchafalaya River Ship Channel at Eugene Island as delineated by the River Channel Buoy Line to the western shore of Freshwater Bayou at 92 degrees 18 minutes 33 seconds west longitude to open at 6:00 am May 13, 2013, and

That portion of state inside waters from the western shore of Vermilion Bay and Southwest Pass at Marsh Island to the Louisiana/Texas state line, to open at 6:00 am May 27, 2013,

The Commission also hereby grants authority to the Secretary of the Department of Wildlife and Fisheries to close any portion of Louisiana's inside waters to protect small juvenile white shrimp if biological and technical data indicate the need to do so, or enforcement problems develop. The Secretary is further granted the authority to open any area, or re-open any previously closed area, and to open and close special shrimp seasons in any portion of state inside waters based upon biological and technical data following notification to the Chair of the Wildlife and Fisheries Commission.

Ronald "Ronny" Graham  
Chair

1305#036

# Rules

## RULE

### Department of Children and Family Services Division of Programs Licensing Section

#### Juvenile Detention Facilities Fees, Fines, Penalties, and State Central Registry Disclosure (LAC 67:V.7503)

Editor's Note: The following Section is being repromulgated to correct codification errors. The original Rule can be viewed in the April 20, 2013 edition of the *Louisiana Register*, pages 1006-1009.

The Department of Children and Family Services (DCFS), Division of Programs, Licensing Section in accordance with provisions of the Administrative Procedure Act, R.S. 49:953(A) has amended LAC 67:V, Subpart 8, Residential Licensing, Chapter 75, Juvenile Detention Facilities to comply with the provisions of Act 814 which was enacted during the 2012 Regular Legislative Session.

In accordance with Act 814 all juvenile detention facilities (JDF) licensed by DCFS shall be assessed with an annual licensing fee. Whoever operates any juvenile detention facility without a valid license issued by the department shall be fined \$1,000 for each day of operation without a valid license. State central registry disclosure shall be required for any owner, operator, current or prospective employee, or volunteer of a juvenile detention facility.

This Rule is effective July 1, 2013.

## Title 67

### SOCIAL SERVICES

#### Part V. Child Welfare

##### Subpart 8. Residential Licensing

#### Chapter 75. Juvenile Detention Facilities

##### §7503. Authority

- A. - A.1. ...
- B. Penalties

1. Whoever operates a juvenile detention facility without a valid license issued by the department shall be fined \$1,000 per day for each day of such unlicensed operation in accordance with R.S. 15:1110.1. Such fines may be assessed by the department separately or in conjunction with a proceeding for injunctive relief as provided in Section 7503.B.2.

2. In addition to the civil fines, the department may file suit in the district court in the parish in which the facility is located for injunctive relief, including a temporary restraining order, to restrain the institution, society, agency, corporation, person or persons, or any other group operating the facility, from continuing the violation.

- C. - C.1.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1559 (July 2012), amended LR 39:1006 (April 2013), effective July 1, 2013, repromulgated LR 39:1264 (May 2013).

Suzy Sonnier  
Secretary

1305#025

## RULE

### Department of Culture, Recreation and Tourism Office of State Parks

#### State Parks (LAC 25:IX.Chapters 3, 5, 9, and 11 and XI.Chapter 5)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 56:1681-1690, R.S. 56:1801-1809 and R.S. 36:201-209, the Department of Culture, Recreation and Tourism, Office of State Parks has amended its regulations to perform general editing, updating to align provisions with newly enacted statutes, a revision of fees, and moving the rules governing Black Bear Golf Course from the Lieutenant Governor's office to the Office of State Parks.

## Title 25

### CULTURAL RESOURCES

#### Part IX. Office of State Parks

##### Chapter 3. General Provisions

##### §305. Vehicle Use

- A. - D. ...

E. No motor vehicle shall be operated on OSP property without being properly licensed by the appropriate regulatory agencies. However, persons with mobility disabilities may use single-passenger, wheeled devices powered by electric motors wherever pedestrians are allowed. Multiple-passenger wheeled devices powered by electric motors (e.g., golf carts) are permitted to transport persons with mobility disabilities within the campgrounds. The disabled visitor must be a passenger in the vehicle. Golf carts may be driven by licensed and insured drivers on the roadways at Palmetto Island State Park. Low-speed electric bicycles (electric motor of less than 750 watts, 1 h.p.) are treated like bicycles. As new wheeled devices powered by electric motors are developed, exceptions to this provision may be granted in advance on a case-by-case basis by the site manager or by policy approved by the assistant secretary.

- F. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:634 (December 1982), amended LR 12:89 (February 1986), LR 14:772



(November 1988), LR 26:25 (January 2000), LR 31:1980 (August 2005), LR 39:1264 (May 2013).

### **§307. Water Craft**

A. - H. ...

I. Water bodies or portions thereof adjacent to boat ramps, docks, swimming areas, boathouses, cabins, picnic pavilions, or other facilities shall be designated "no wake areas." Signs and/or buoys will mark the areas so designated. Violations of "no wake areas" shall be subject to citations.

J. Personal watercraft are prohibited at Poverty Point Reservoir, Chicot Lake, Hodges Gardens Lake and in any portion of any site posted as a "no ski zone."

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:634 (December 1982), amended LR 12:89 (February 1986), LR 16:1052 (December 1990), LR 26:26 (January 2000), LR 31:1981 (August 2005), LR 36:1226 (June 2010), LR 39:1265 (May 2013).

### **§313. Fishing, Hunting, Trapping, and the Use of Firearms or Fireworks**

A. All wildlife in OSP sites, including reptiles and amphibians, is under strict protection and must not be hunted, molested, disturbed, destroyed, fed or removed, except for scientific or management purposes when approved by the assistant secretary.

B. ...

C. A person who lawfully possesses a firearm may possess or transport such firearm within the boundaries of a state park, state historic site or state preservation area.

D. ...

E. A person fishing on OSP property must adhere to all state and federal laws and criteria regarding fresh and/or salt water fishing. The taking of fish by nets, traps or any means other than hook or line is prohibited at any and all sites, except for management purposes as authorized by special permit. Notwithstanding the previous provision to the contrary, the taking of flounder by gigs, crabbing at Grand Isle SP and the taking of fish by means of a yo-yo or trigger device (as defined in R.S. 56:8) in Chicot Lake at Chicot State Park, are permitted subject to the following restrictions.

1. Fishing with the use of yo-yos or trigger devices shall be permitted on Chicot Lake only from November 1-March 1 of each year.

2. Not more than 24 yo-yos or trigger devices shall be allowed per boat.

3. Each yo-yo must be tagged with the name of the responsible party, the registration number of the boat, and the date and time the yo-yo was set.

4. All yo-yos must be attended and re-tagged at least every 48 hours.

F. Weapon-like toys (paintball maker, airsoft, etc.) that use compressed air or gases from any cartridge, canister or bottle and/or battery power to fire a projectile are prohibited from use at all OSP sites properties without prior written approval of the assistant secretary or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 14:773

(November 1988), LR 16:1052 (December 1990), LR 19:308 (March 1993), LR 31:1982 (August 2005), LR 36:1227 (June 2010), LR 39:1265 (May 2013).

### **§314. Swimming**

A. ...

B. All children under 12 years of age must be accompanied by an adult at any swimming area or water playgrounds.

C. The capacity of all pools, water playgrounds and beach areas is determined, regulated and enforced by the site manager.

D. - G. ...

H. Proper swimming attire, as determined by the site manager or his designee, is required for those entering the water at all swimming areas and water playgrounds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:635 (December 1982), amended LR 12:89 (February 1986), LR 16:1052 (December 1990), LR 26:27 (January 2000), amended LR 31:1983 (August 2005), LR 36:1227 (June 2010), LR 39:1265 (May 2013).

### **§315. Amplified Sound Equipment**

A. No person shall play amplified musical instruments except when approved by the assistant secretary or his designee.

B. No person shall play non-amplified musical instruments, radios, televisions, tape players and similar equipment in a manner that disturbs other visitors.

C. No person shall use any public address system, whether fixed, portable, or vehicle-mounted, without prior approval of the assistant secretary or his designee.

D. Remote public broadcast activities must be approved by the assistant secretary or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:636 (December 1982), amended LR 12:89 (February 1986), LR 26:27 (January 2000), LR 31:1983 (August 2005), LR 39:1265 (May 2013).

### **§317. Disorderly Conduct**

A. - B. ...

C. No person shall publicly display on his vehicle, campsite, clothing, person or otherwise:

1. any word or words, image, graphic or depiction that is obscene;

2. denigrates any ethnic, racial, religious or minority group; or

3. promotes violence or illegal activity.

*Obscene*—obscenity as contained in R.S. 14:106.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:636 (December 1982), amended LR 12:89 (February 1986), LR 26:27 (January 2000), LR 31:1983 (August 2005), LR 39:1265 (May 2013).

### **§319. Business Activities**

A. No person may sell or offer for sale any merchandise or service without the written consent of the assistant secretary or his designee.

B. No person may distribute, post, place, or erect any advertising device without the written consent of the assistant secretary or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:636 (December 1982), amended LR 12:89 (February 1986), LR 26:27 (January 2000), LR 31:1983 (August 2005), LR 39:1265 (May 2013).

### **§321. Fines and Enforcement**

A. In addition to any other penalty provided by law, persons violating these rules and regulations are subject to administrative fines for each violation of not less than \$15 nor more than \$250 (R.S. 56:1689), eviction from the site, and/or restitution to the state for damages incurred. If a person is delinquent in paying for damage incurred, the agency reserves the right to refuse privileges to that person pending receipt of such restitution.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:636 (December 1982), amended LR 12:89 (February 1986), LR 26:27 (January 2000), LR 27:1673 (October 2001), LR 31:1983 (August 2005), LR 36:1227 (June 2010), LR 39:1266 (May 2013).

### **§331. Overnight Use**

A. - C.3. ...

4. The maximum overnight (10 p.m. to 8 a.m.) capacity for cabins, lodges and group camps is the maximum sleeping capacity of the facilities. The maximum daytime (8 a.m. to 10 p.m.) capacity for cabins, lodges and group camps is double the sleeping capacity of the facilities. Exceptions may be granted by the assistant secretary or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:634 (December 1982), amended LR 12:89 (February 1986), LR 14:772 (November 1988), LR 16:1053 (December 1990), LR 19:308 (March 1993), LR 26:28 (January 2000), LR 27:1673 (October 2001), LR 31:1984 (August 2005), LR 36:1227 (June 2010), LR 39:1266 (May 2013).

## **Chapter 5. Procedures and Fees**

### **§500. Fees and Exemptions; Day-Use Fees**

A. State Parks General Admission Day-Use Entrance Fees

1. Except as otherwise provided in this Chapter, a day-use fee is charged at all state parks (except St. Bernard State Park).

a. Persons in noncommercial vehicles, walk-in visitors and visitors on bicycles are charged \$2 per person per day.

1.b. - 2.b. ...

3. A self-service fee system may be used to collect user fees on areas not normally served by an entrance control station.

4. Dump Station Use. Persons with recreational vehicles who desire to utilize only the pump station facilities on any state park shall be charged the day-use entrance fee. Discounts are not applicable to this use.

### **B. State Historic Sites General Admission Fees**

1. Except as otherwise provided in this Section, an admission fee of \$4 per person is charged for all state historic sites.

a. Locust Grove SHS and Los Adaes SHS have no admission fee.

b. - c. ...

d. Rosedown Plantation SHS and Audubon SHS admission fees are set forth in this Section.

2. - 3.b.iv. ...

#### **4. Audubon State Historic Site**

a. Charges for admission to the visitor center, plantation house and grounds are at the following rates:

- i. \$8 per adult (ages 18 to 61);
- ii. \$6 per senior citizen (ages 62 and over);
- iii. \$4 per student (ages 6 to 17);
- iv. free for children (ages 5 and under).

b. Charges for admission to the grounds only are at the following rates:

- i. \$4 per person (ages 6 and over);
- ii. free for children (ages 5 and under).

5. Organized groups of 10 or more are requested to notify the site manager in advance of their arrival. There is no additional fee for SHS visitors arriving by bus.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:636 (December 1982), amended LR 12:89 (February 1986), LR 14:774 (November 1988), LR 16:1053 (December 1990), LR 19:309 (March 1993), LR 26:29 (January 2000), LR 27:1673 (October 2001), LR 31:1986 (August 2005), LR 36:1228 (June 2010), LR 39:1266 (May 2013).

### **§501. Fees and Exemptions; Miscellaneous Services and Facilities Fees**

#### **A. Boating**

1. - 2. ...

3. Canoes may be rented for \$5 per hour or \$20 per vessel, per day. Kayaks and paddle boats may be rented for \$5 per hour or \$30 per vessel, per day. A guided canoe float trip is charged \$25 per canoe, per trip. All fees include paddles and life jackets.

4. At some sites rental boats, kayaks, canoes and other water vessels may be available through a concessionaire. Visitors should contact the site to check availability and rates.

B. - C. ...

#### **D. Group Rental Pavilions**

1. Group rental pavilions are available at most state parks and state historic sites.

2. - 5. ...

6.a. Type I Pavilion. These pavilions, usually located in the day-use area, accommodate a standard of 40 people. Reserved rental rate is \$40 per day.

b. Type II Pavilion. These pavilions, usually located in the day-use area, accommodate 60 people. Reserved rental rate is \$60 per day.

c. Type III Pavilion. These pavilions are usually separated from the day-use area, affording more group privacy than the other pavilion types. They may

accommodate 100 people. Reserved rental rate is \$100 per day.

E. Meeting Rooms. Meeting rooms used to accommodate meetings and functions of private groups, clubs and other organizations are available during normal park operating hours. Kitchen facilities may be used, if available. Meeting room rates are as follows.

\$100	Type I e.g., North Toledo Bend, Palmetto Island, Lake D'Arbonne, Arboretum, Fontainebleau, Poverty Point Reservoir, Lake Claiborne
\$150	Type II e.g., Chemin-à-Haut, Chicot
\$200	Type III e.g., Lake Fausse Pointe, Bogue Chitto

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:637 (December 1982), amended LR 12:89 (February 1986), LR 14:774 (November 1988), LR 16:1052 (December 1990), LR 26:29 (January 2000), LR 27:1673 (October 2001), LR 31:1986 (August 2005), LR 36:1228 (June 2010), LR 39:1266 (May 2013).

#### **§502. Fees and Exemptions; Exemptions/Discounts**

A. Disabled Veterans. A special veteran entrance permit allows any disabled Louisiana resident who is a veteran of the armed forces of the United States and any person(s) accompanying him in a single, private, non-commercial vehicle exemption from the day-use entrance fees to any Louisiana state park. Applications for a veteran permit may be made to the Louisiana Department of Veterans' Affairs service office serving the parish in which the applicant resides. After certification of eligibility has been established by the Department of Veterans' Affairs, the assistant secretary of the Office of State Parks will issue a permit directly to the applicant.

B. ...

C. National Parks and Federal Recreation Lands Passes. Any citizen of the United States who possesses a national parks and federal recreation lands senior pass (formerly the golden age passport) or access pass (formerly the golden access passport) issued by any agency of the United States, pursuant to 16 U.S.C. Section 460 L-65, upon presentation of the pass and proper identification to any OSP authorities, shall be exempt from the day-use entrance fee to any OSP site and/or receive a 50 percent discount on camp site rental fees provided that the state park system of the citizen's domicile as reflected on his presented identification also recognizes such passes for discounted access and services.

D. Non-Profit Community Home-Based Organization. Any child age 18 or under who is retained in the legal custody of the state through a bona fide contractual service agreement with a public, non-profit community home-based organization or provider shall be exempt from paying the general day-use entrance fees or any other day-use fee at any site. Such use must be in conjunction with an organized group outing or event sponsored and supervised by the public, non-profit organization or provider.

1. ...

2. This exemption shall not be applicable to overnight facilities at any state park such as group camps, cabins, campgrounds, etc.

E. Annual Day-Use Permits

1. Permits are available at a cost of \$80 per year. This permit, in the form of a wallet I.D. card, allows the holder

individually or as a passenger in a single, private non-commercial vehicle entry to all sites in lieu of the normal day-use fee. All people accompanying a permit holder as occupants in a single, private non-commercial vehicle in which the permit holder is a passenger or driver are also admitted without charge.

a. ...

b. The annual day-use permits are valid for a period of one year from the date of purchase. Permits may be obtained at any site.

E.2. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:637 (December 1982), amended LR 12:89 (February 1986), LR 14:774 (November 1988), LR 16:1053 (December 1990), LR 19:309 (March 1993), LR 26:29 (January 2000), LR 27:1673 (October 2001), LR 31:1987 (August 2005), LR 36:1229 (June 2010), LR 39:1267 (May 2013).

#### **§504. Fees and Exemptions; Overnight Use**

A. Camping

1. An improved campsite rents for \$18 per night during the winter season (October 1-March 31) and \$22 per night during the summer season (April 1-September 30). An unimproved campsite rents for \$14 per night. A premium campsite rents for \$20 per night during the winter season and \$28 per night during the summer season. For information regarding campsite reservation fees, see §505, Reservation Policy.

A.2. - F.1. ...

G. Special Research Dormitory Facilities at Poverty Point SHS

1. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:638 (December 1982), amended LR 12:89 (February 1986), LR 12:828 (December 1986), LR 26:30 (January 2000), LR 27:1674 (October 2001), LR 31:1988 (August 2005), LR 36:1229 (June 2010), LR 39:1267 (May 2013).

#### **§505. Reservation Policy**

A. General Provisions

1. Reservations may be made for all OSP facilities that are subject to reservation by calling (877) 226-7652. Overnight and day-use facilities, including cabins, lodges, group camps, camping sites, rally shelters, meeting rooms and pavilions may be reserved 11 months in advance. For example, if a park user wants to use a facility on July 2, he may make the reservation no earlier than August 2, or the first business day after August 2, of the prior year. Reservations may also be made online 24 hours a day by accessing the OSP web site, [www.lastateparks.com](http://www.lastateparks.com). A non-refundable service fee is charged for all reservations.

2. The call center will operate 7 a.m. to 6 p.m., Monday-Friday. The call center will close for state holidays. Based upon demand, the center's hours may be extended by the assistant secretary or his designee.

3. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1693 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:640

(December 1982), amended LR 12:89 (February 1986), LR 14:777 (November 1988), LR 16:1051 (December 1990), LR 26:32 (January 2000), LR 27:1674 (October 2001), LR 31:1989 (August 2005), LR 36:1230 (June 2010), LR 39:1267 (May 2013).

## **Chapter 9. Division of Outdoor Recreation Administration**

### **§901. Land and Water Conservation Fund Program Summarized<sup>1</sup>**

A. - B. ...

C. Designation of State Liaison Officer. To be eligible for assistance under the LandWCF Act, each state must designate a state liaison officer (SLO) who shall represent the state in dealing with the director of the NPS for purposes of the LandWCF program. The SLO shall have the authority and responsibility to accept and to administer funds paid for approved projects. The SLO is designated as the Department of Culture, Recreation and Tourism assistant secretary for the Office of State Parks. An alternate state liaison officer (ASLO) shall support actions of the SLO as appropriate when necessary in accordance to all provisions of the LandWCF Act. The ASLO is designated as the Office of State Parks director of outdoor recreation.

D. ...

<sup>1</sup>Department of the Interior, LandWCF Grants Manual, 69, effective October 1, 2008.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:89 (February 1986), amended LR 12:829 (December 1986), repromulgated LR 31:1991 (August 2005), amended LR 36:1231 (June 2010), LR 39:1268 (May 2013).

### **§921. LandWCF Application Preparation, Review and Selection Process**

A. Applications for LandWCF funds must be submitted to the DOR through an online application available on the Louisiana State Parks web site. Applications must be submitted by April 1 (annually). Receipt of an application initiates an extensive and highly competitive process involving DOR preparation of the federal application package, securing clearinghouse approval, evaluation and rating, and presentation to the Louisiana State Parks and Recreation Commission (SPARC) for review and recommendations to the SLO of those projects to be forwarded to the National Park Service for federal approval. Assistance is available from the DOR staff for completion of the online application at any time throughout the year.

1. - 2. ...

3. Development projects must be a single scope of work. Initial applications for projects that require additional phases should indicate the master plan for the entire development. Supporting documents submitted for the first of a series of phases should indicate the entire master development plan for the facility. To receive funding assistance for subsequent phases of development, the active project must be completed and a new application submitted identifying the elements that will be addressed in the current phase. Supporting documents from the original application can be used to minimize duplication. Approval of the initial project does not imply guarantee of assistance in subsequent phases.

4. Subsequent phases to achieve elements of a master plan in an existing LandWCF project are prioritized in accordance with the open project selection process. This objective scoring system prioritizes all applications in accordance with LandWCF regulations, which are then funded to the full extent of available federal funds. The prioritization is validated by the SPARC prior to submission to the National Park Service for federal review and approval.

5. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1704, R.S. 56:1801-1809 and R.S. 36:201-209.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 36:1232 (June 2010), amended LR 39:1268 (May 2013).

### **§929. RTP Application Preparation, Review and Selection Process**

A. - C. ...

D. Within one business day of the application deadline, Division of Outdoor Recreation staff will begin an initial review of all applications for completeness. Applications lacking all necessary documentation will be considered ineligible and will be returned to the project sponsor. Applications providing satisfactory documentation will be evaluated in accordance with Federal Highway Administration standards and ranked in priority order. The Louisiana Recreational Trails Advisory Committee will endorse projects gaining initial approval, ranking results. This committee will advise the Division of Outdoor Recreation staff on project priority. Applications will be forwarded for environmental clearance by the Department of Transportation and Development. With environmental clearance, projects will be forwarded to the Federal Highway Administration for federal approval.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1704, R.S. 56:1801-1809 and R.S. 36:201-209.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 36:1234 (June 2010), amended 39:1268 (May 2013).

## **Chapter 11. Black Bear Golf Course**

Editor's Note: This Chapter 11 (§§1101-1131) has been moved from LAC 25:XI.Chapter 5 (§§501-531).

### **§1101. Definitions**

#### **[Formerly LAC 25:XI.501]**

A. As used within this Part, the following terms have the meanings provided herein.

*Black Bear Golf Course (course)*—a public, 18-hole championship golf course and its associated property and facilities. Located adjacent to Poverty Point Reservoir in Richland Parish, Louisiana, the *course* is operated by the Louisiana Department of Culture, Recreation and Tourism, Office of State Parks.

*Director of Golf (director)*—the top supervisor directly in charge of day-to-day management of the course. The *director* is responsible for enforcing all rules set forth in this Part and for enforcing all course policies and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:249 (February 2007), amended by the Department of Culture,

Recreation, and Tourism, Office of State Parks, LR 39:1268 (May 2013).

**§1103. General Authority and Purpose**  
**[Formerly LAC 25:XI.503]**

A. Course rules are designed to provide the proper atmosphere for the enjoyment and protection of course facilities and for the safety of visitors. Visitors are expected to familiarize themselves with these rules.

B. Course is open to all persons regardless of race, color, national origin, age, sexual orientation, or disability.

C. All applicable rules governing the Office of State Parks shall apply to Black Bear Golf Course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:250 (February 2007), amended by the Department of Culture, Recreation, and Tourism, Office of State Parks, LR 39:1269 (May 2013).

**§1105. Course Property**  
**[Formerly LAC 25:XI.505]**

A. No person shall intentionally remove, damage, destroy, or disturb course property or the property of another course visitor, without the consent of the owner. Such "property" shall include but is not limited to structures, signs, movables, markers, natural features, holes, grass or other plants or landscaping, or wildlife.

B. Smoking is prohibited except in designated areas. No outside alcoholic beverages are allowed on course property.

C. No person shall throw, drop, deposit, discard, permit the intentional or accidental ejection, emission, or escape of, or otherwise dispose of litter upon course property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:250 (February 2007), amended by the Department of Culture, Recreation, and Tourism, Office of State Parks, LR 39:1269 (May 2013).

**§1107. Golfing Etiquette**  
**[Formerly LAC 25:XI.507]**

A. All golfers must use proper golfing etiquette at all times. This includes but is not limited to maintaining the proper pace of play and allowing incoming groups to play through if necessary. Golfers should repair divots in the fairway and ball marks on greens.

B. Proper attire, including shirt and shoes, must be worn by all golfers at all times. Proper attire for men includes sleeved and collared or semi-collared shirts; hemmed non-denim pants or shorts April 1-October 31 (denim acceptable November 1-March 31 at the discretion of the pro shop staff); and soft-spike shoes. Proper attire for women includes collared or semi-collared shirts; hemmed non-denim pants, shorts, or skirts; and soft-spike shoes.

C. Groups of more than five golfers will only be allowed to play in a group together on the course with special permission from the director. Single golfers will only be allowed if the course is clear or with special permission from the director.

D. Children under 6 years old are not allowed on the course without special permission from the director. When

on a golf cart, children between and including age 6 to age 16 must be accompanied by an adult.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:250 (February 2007), amended by the Department of Culture, Recreation, and Tourism, Office of State Parks, LR 39:1269 (May 2013).

**§1109. Disorderly Conduct**  
**[Formerly LAC 25:XI.509]**

A. Disorderly or boisterous conduct is forbidden.

B. The director is authorized to control the use and consumption of alcoholic beverages on the course. The consumption of alcoholic beverages may be allowed to the extent that such activity does not adversely affect the use and enjoyment of the course by others.

C. No loud or otherwise disruptive pets will be allowed at the course. The director or other authorized course employees will have discretion to determine which pets are not allowed. Owners will be responsible for their pets, including keeping the pets under control, cleaning up after the pets, and the payment of restitution for any damage caused by the pets.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:250 (February 2007), amended by the Department of Culture, Recreation, and Tourism, Office of State Parks, LR 39:1269 (May 2013).

**§1111. Business Solicitation**  
**[Formerly LAC 25:XI.511]**

A. No person may sell or offer for sale any merchandise or service at the course without the written consent of the director, subject to applicable laws, rules, and policies of the state.

B. No person may distribute, post, place, or erect any advertising device at the course without the written consent of the director, subject to applicable laws, rules, and policies of the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:250 (February 2007), amended by the Department of Culture, Recreation, and Tourism, Office of State Parks, LR 39:1269 (May 2013).

**§1113. Trespass**  
**[Formerly LAC 25:XI.513]**

A. No person shall enter course property except at designated public access points or unless possessing permission from authorized agents of the course.

B. No person shall enter the course when the course is closed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:250 (February 2007), amended by the Department of Culture, Recreation, and Tourism, Office of State Parks, LR 39:1269 (May 2013).

### **§1115. Vehicle Use**

#### **[Formerly LAC 25:X1.515]**

A. The provisions of the Louisiana Highway Regulatory Act (R.S. 32:1 et seq.) and any rules and regulations promulgated thereunder shall be enforced on course property.

B. Automobiles, trucks, motorcycles, bicycles, recreation vehicles, or any other wheeled vehicles, excluding golf carts, must be operated only on those roads, lanes, or byways designated for vehicular traffic unless otherwise specifically authorized by the director.

C. Golf carts must be driven only on the cart paths at tees and greens. Golf carts may not be driven in the heavy rough areas.

D. Vehicles, including recreational vehicles, motorcycles, and trailers, shall be parked only in designated parking areas unless otherwise specifically authorized by the director or his designees.

E. No person shall operate a vehicle in excess of the posted speed limit.

F. No unauthorized person may remove any barrier to gain access to a restricted area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:251 (February 2007), amended by the Department of Culture, Recreation, and Tourism, Office of State Parks, LR 39:1270 (May 2013).

### **§1117. Fines and Enforcement**

#### **[Formerly LAC 25:X1.517]**

A. In addition to any other penalty provided by law, persons violating these rules and regulations are subject to administrative fines for each violation, eviction from the course, and/or restitution to the DCRT for damages incurred.

B. At the director's discretion, any person who is evicted from the course for disciplinary reasons may be banned from the course for one year.

C. If a person is delinquent in paying for damage incurred, the DCRT reserves the right to refuse privileges to that person pending receipt of such restitution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:251 (February 2007), amended by the Department of Culture, Recreation, and Tourism, Office of State Parks, LR 39:1270 (May 2013).

### **§1119. Operating Schedule**

#### **[Formerly LAC 25:X1.519]**

A. The course operating schedule will be set at the discretion of the director based on user demand, course conditions, budgetary reductions, legislative mandates, construction and maintenance, availability of staff and other resources, and other relevant factors. The hours of operation will be posted at the course.

B. The director may direct the closing of the course to public use when or if any natural or man-made occurrence has affected, or is expected to affect, the operation and management of the course to a degree normal public use and enjoyment are altered, or when such use might impair the health, safety, and well-being of the public or the course employees.

C. The director may also close portions of the course for reasons provided in Subsections A or B or for any other relevant factor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:251 (February 2007), amended by the Department of Culture, Recreation, and Tourism, Office of State Parks, LR 39:1270 (May 2013).

### **§1121. Course Fees**

#### **[Formerly LAC 25:X1.521]**

#### **A. Fees**

<b>The maximum fees that may be charged for reservations or use of the course and its services and facilities are as follows, taxes not included:</b>	<b>Maximum Fee</b>
Greens fee per golfer, including shared cart and range balls	\$75
Second tee time	\$40/per golfer
Annual pass	\$2800
Driving range	\$15/hour
Cart rental, 18 holes	\$18/rider
Cart rental, 9 holes	\$10/rider

B. From time to time, as deemed appropriate by the assistant secretary or his designee, special programs, rates, discounts on course fees, or package deals may be offered in order to promote the course or encourage visitation, e.g., on weekdays or during off-peak golfing months.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:251 (February 2007), amended by the Department of Culture, Recreation, and Tourism, Office of State Parks, LR 39:1270 (May 2013).

### **§1123. Reservation Policy**

#### **[Formerly LAC 25:X1.523]**

A. Tee time reservations will be taken one month in advance. A credit card or other form of deposit will be required to secure a time. Reservations will be accepted only from persons 18 years of age or older.

B. Groups will be allowed to book two, three, four, or five players per time slot. On weekends and holidays, groups will only be allowed to book fivesomes after 10 a.m.

C. Cancellation of reservations must be made at least 24 hours in advance. Cancellations made within 24 hours of the scheduled tee time might be subject to a 50 percent surcharge. A change of reservation date or time will be considered a cancellation and treated accordingly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:251 (February 2007), amended by the Department of Culture, Recreation, and Tourism, Office of State Parks, LR 39:1270 (May 2013).

### **§1125. Refunds**

#### **[Formerly LAC 25:X1.525]**

A. Rain checks will be issued at the discretion of the director for unfavorable changes in weather conditions, so long as the conditions stay unfavorable for golfing for more than 30 minutes. Credit will be given only for the percentage of holes not completed.

B. Refunds will not be issued to persons evicted for violations of these rules.

C. Refunds will not be issued to persons who choose to leave the course as a result of inclement weather before the director has decided that the change in weather will persist for more than 30 minutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:251 (February 2007), amended by the Department of Culture, Recreation, and Tourism, Office of State Parks, LR 39:1270 (May 2013).

#### **§1127. Tournament Procedure** **[Formerly LAC 25:XI.527]**

##### **A. Fees**

The maximum deposit fees that may be charged for tournament reservations are as follows:	Maximum Fee
Under 20 Players	\$100
21-50 Players	\$200
Over 51 Players	\$300

1. Deposit fees may be waived at the director's discretion for a group that previously hosted a successful tournament.

B. Groups of 12 or more players will be booked as a tournament. Any group with three or more requested tee times will be allowed to contract a tournament.

C. Only the director or his designee may book a tournament. The tournament may be booked as far in advance as needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:252 (February 2007), amended by the Department of Culture, Recreation, and Tourism, Office of State Parks, LR 39:1271 (May 2013).

#### **§1129. Golf Cart Rental** **[Formerly LAC 25:XI.529]**

A. A valid driver's license is required to rent a golf cart. The renter must be able to safely use the cart while it is under his control.

B. Carts must be returned immediately after completion of play, in as good condition as originally rented. Any person who damages a golf cart under his or her rental control agrees to pay for necessary repairs.

C. Any person who rents a golf cart agrees to hold the course harmless for any damage caused to any person or the cart by its operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:252 (February 2007), amended by the Department of Culture, Recreation, and Tourism, Office of State Parks, LR 39:1271 (May 2013).

#### **§1131. Golfer Safety** **[Formerly LAC 25:XI.531]**

A. At the first sign of lightning in the immediate area, a course representative will drive course to communicate suspension of play. Those who remain on the course after the lightning warning is given will be playing at their own risk.

B. All persons must exercise reasonable care while using course facilities and follow safety rules at all times. Each person assumes liability for his or her own safety, and the DCRT will not be responsible for accident or injury to any person or to others caused by that person's own recklessness.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:252 (February 2007), amended by the Department of Culture, Recreation, and Tourism, Office of State Parks, LR 39:1271 (May 2013).

### **Part XI. Office of the Secretary** **Chapter 5. Black Bear Golf Course**

#### **§501. Definitions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:249 (February 2007), repealed by the Department of Culture, Recreation, and Tourism, Office of State Parks, LR 39:1271 (May 2013).

#### **§503. General Authority and Purpose**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:250 (February 2007), repealed by the Department of Culture, Recreation, and Tourism, Office of State Parks, LR 39:1271 (May 2013).

#### **§505. Course Property**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:250 (February 2007), repealed by the Department of Culture, Recreation, and Tourism, Office of State Parks, LR 39:1271 (May 2013).

#### **§507. Golfing Etiquette**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:250 (February 2007), repealed by the Department of Culture, Recreation, and Tourism, Office of State Parks, LR 39:1271 (May 2013).

#### **§509. Disorderly Conduct**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:250 (February 2007), repealed by the Department of Culture, Recreation, and Tourism, Office of State Parks, LR 39:1271 (May 2013).

#### **§511. Business Solicitation**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:250 (February 2007), repealed by the Department of Culture,

Recreation, and Tourism, Office of State Parks, LR 39:1271 (May 2013).

#### **§513. Trespass**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:250 (February 2007), repealed by the Department of Culture, Recreation, and Tourism, Office of State Parks, LR 39:1272 (May 2013).

#### **§515. Vehicle Use**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:251 (February 2007), repealed by the Department of Culture, Recreation, and Tourism, Office of State Parks, LR 39:1272 (May 2013).

#### **§517. Fines and Enforcement of the Rules and Regulations**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:251 (February 2007), repealed by the Department of Culture, Recreation, and Tourism, Office of State Parks, LR 39:1272 (May 2013).

#### **§519. Operating Schedule**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:251 (February 2007), repealed by the Department of Culture, Recreation, and Tourism, Office of State Parks, LR 39:1272 (May 2013).

#### **§521. Course Fees**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:251 (February 2007), repealed by the Department of Culture, Recreation, and Tourism, Office of State Parks, LR 39:1272 (May 2013).

#### **§523. Reservation Policy**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:251 (February 2007), repealed by the Department of Culture, Recreation, and Tourism, Office of State Parks, LR 39:1272 (May 2013).

#### **§525. Refunds**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:251 (February 2007), repealed by the Department of Culture, Recreation, and Tourism, Office of State Parks, LR 39:1272 (May 2013).

#### **§527. Tournament Procedure**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:252 (February 2007), repealed by the Department of Culture, Recreation, and Tourism, Office of State Parks, LR 39:1272 (May 2013).

#### **§529. Golf Cart Rental**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:252 (February 2007), repealed by the Department of Culture, Recreation, and Tourism, Office of State Parks, LR 39:1272 (May 2013).

#### **§531. Golfer Safety**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:252 (February 2007), repealed by the Department of Culture, Recreation, and Tourism, Office of State Parks, LR 39:1272 (May 2013).

Stuart Johnson  
Assistant Secretary

1305#021

### **RULE**

#### **Board of Elementary and Secondary Education**

Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel  
(LAC 28:CXLVII.105, 301, 303,  
305, 325, 327, 701, and 905)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel*: §105, Framework for LEA Personnel Evaluation Programs; §301, Overview of Personnel Evaluation; §303, Measures of Growth in Student Learning—Value-Added Model; §305, Measures of Growth in Student Learning—Non-Tested Grades and Subjects; §325, Extenuating Circumstances; repeal §327, Statement of Assurance; §701, Annual Summary Reporting Format; and §905, Definitions. The policy contains revisions to the Compass Support and Evaluation System for teachers and leaders in response to educator feedback.



**Title 28  
EDUCATION**

**Part CXLVII. Bulletin 130—Regulations for the  
Evaluation and Assessment of School Personnel**

**Chapter 1. Overview**

**§105. Framework for LEA Personnel Evaluation  
Programs  
[Formerly §109]**

A. ...

B. Local personnel evaluation plans defined by the board shall include, at a minimum, the following elements.

1. Job Descriptions. The LEA shall establish job descriptions for every category of teacher and administrator. All job descriptions shall contain the criteria for which the teacher or administrator shall be evaluated.

2. Professional Growth Planning Process. The LEA shall provide guidelines for teachers and administrators to develop a professional growth plan with their evaluators. Such plans must be designed to assist each teacher or administrator in demonstrating effective performance, as defined by this bulletin. Each plan will include objectives as well as the strategies that the teacher or administrator intends to use to attain each objective.

3. Observation/Data Collection Process. The evaluator or evaluators of each teacher and administrator shall conduct observations of teacher and administrator practice sufficient to gain a complete picture of performance and impart individualized feedback each year. This shall include a minimum of two observations per academic year and may include more observations, particularly for teachers or administrators that are not meeting expectations. At least one of these observations shall be announced and shall include a pre- and post-observation conference. One of the observations may be waived for teachers who have earned a rating of highly effective according to the value-added model in the previous year. Following all observations, evaluators shall provide evaluatees with feedback, including areas for commendation as well as areas for improvement. Additional evidence, such as data from periodic visits to the school and/or classroom as well as written materials or artifacts, may be used to inform evaluation.

4. Professional Development and Support. LEAs shall provide multiple opportunities for teachers and administrators to receive feedback, reflect on individual practice, and consider opportunities for improvement throughout the academic year, and shall provide intensive assistance plans to teachers and administrators, according to the requirements set forth in this bulletin.

5. Grievance Process. LEAs shall include in their local personnel evaluation plans a description of the procedures for resolving conflict and/or grievances relating to evaluation results in a fair, efficient, effective, and professional manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, and R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2251 (October 2010), amended LR 38:1215 (May 2012), LR 38:2359 (September 2012), LR 39:1273 (May 2013).

**Chapter 3. Personnel Evaluation**

**§301. Overview of Personnel Evaluation**

A. Personnel evaluation for teachers and administrators shall be composed of two parts. Fifty percent of the evaluation shall be composed of applicable measure(s) of growth in student learning. The remaining 50 percent shall be based upon a qualitative assessment of teacher or administrator performance.

1. For teachers, the 50 percent of the evaluation based upon growth in student learning shall measure the growth of their students using data from the value-added model and/or student learning targets, according to guidelines provided by the department. For administrators, the 50 percent of the evaluation based upon growth in student learning shall incorporate a school-wide measure of growth.

2. The 50 percent of the evaluation that is based on a qualitative measure of teacher and administrator performance shall include a minimum of two observations or site visits. This portion of the evaluation may include additional evaluative evidence, such as walk-through observation data and evaluation of written work products.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, and R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1215 (May 2012), amended LR 38:2359 (September 2012), LR 39:1273 (May 2013).

**§303. Measures of Growth in Student  
Learning—Value-Added Model**

A. A value-added model shall be used to measure student growth for the purposes of teacher and administrator evaluation, where available, according to guidelines provided by the department.

B. Value-added data shall be provided to teachers in grades and subjects that administer state-wide standardized tests and for which appropriate prior testing data is available. The value-added model shall not be applied for the purposes of evaluation in any cases in which there are fewer than 10 students with value-added results assigned to an educator.

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1216 (May 2012), amended LR 38:3123 (December 2012), LR 39:1273 (May 2013).

**§305. Measures of Growth in Student Learning—Non-  
Tested Grades and Subjects**

A. ...

B. For teachers and administrators of non-tested grades and subjects (NTGS), for which there is little or no value-added data available, progress towards pre-determined student learning targets, as measured by state-approved common assessments, where available, shall govern the student growth component of the evaluation. Student learning targets shall include goals which express an expectation of growth in student achievement over a given period of time, as well as common measures for assessing attainment of those goals, such as an identified assessment and/or a body of evidence.

C. A minimum of two student-learning targets shall be identified for each teacher in NTGS. The department shall provide an evaluative tool for evaluators to use in assessing the quality and attainment of student learning targets.

1. State-approved common assessments shall be used as part of the body of evidence measuring students' attainment of learning targets, where available. At the beginning of each academic year, the department shall publish a list of state-approved common assessments to be used in identified non-tested grades and subject areas.

2. Where no state-approved common assessments for NTGS are available, evaluatees and evaluators shall decide upon the appropriate assessment or assessments to measure students' attainment of learning targets.

3. LEAs may define consistent student learning targets across schools and classrooms for teachers with similar assignments, provided that they allow for ample flexibility to address the specific needs of students in each classroom.

D. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, and R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1216 (May 2012), amended LR 38:2359 (September 2012), LR 39:1273 (May 2013).

### **§325. Extenuating Circumstances**

A. ...

B. Evaluation results shall be invalidated for any teacher or administrator with 60 or more excused absences in a given academic year, due to approved leave, such as maternity leave, military leave, sick leave, or sabbatical leave.

C. For approved leave of fewer days and for any other extenuating circumstances that significantly compromise an educator's opportunity to impact student learning, district superintendents or CEOs may request invalidation of student achievement growth data with relation to the value-added assessment model by submitting such requests in a report to the state superintendent of education. Requests for invalidation of evaluation results shall be made prior to the state's release of annual value-added results and no later than June 1.

D. In cases where value-added data is invalidated, the teacher's principal or designee shall have discretion to determine the evaluation rating, based on the evidence available from students learning targets and observations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, and R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1220 (May 2012), amended LR 38:2361 (September 2012), LR 39:1274 (May 2013).

### **§327. Statement of Assurance**

**[Formerly §345]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2253 (October 2010), amended LR 38:1220 (May 2012), repealed LR 39:

## **Chapter 7. Reporting and Monitoring**

### **§701. Annual Summary Reporting Format**

A. Each LEA will submit an annual personnel evaluation report of the most recent academic year to the department by July 15. Information included in the reporting format reflects data deemed necessary in presenting annual reports to the department, as well as to the LEAs. The reporting of such information includes a variety of responses directed toward the collection of data useful to an analysis of the evaluation process from a statewide perspective. Items that are reported by the LEAs on forms provided by the department include, but are not limited to, the following items:

1. individual-level teacher evaluation results, by teacher;

2. the number of certified and other professional personnel, by categories, who were evaluated as performing ineffectively;

3. the number of certified and other professional personnel, by categories, who were terminated because of not having improved performance within the specified time allotment (Include the reasons for termination.);

4. the number of certified personnel, by categories, who improved (from ineffective to effective) as a result of the evaluation process;

5. the number of formal grievances filed as a result of ineffective performance ratings or disagreement with evaluation results; and

6. the number of evaluatees who received intensive assistance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, and R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2253 (October 2010), amended LR 38:1220 (May 2012), LR 38:2361 (September 2012), LR 39:1274 (May 2013).

## **Chapter 9. General Provisions**

### **§905. Definitions**

A. In order that consistency in terminology be maintained on a statewide basis, the department has established a list of terms and definitions. Careful consideration of each should be given during the training and implementation of personnel evaluation programs. The definitions below must be adopted by all LEAs. If additional terms are necessary in establishing a clear and concise understanding of evaluation procedures, they must be included in the LEA local personnel evaluation plan.

*Accountability*—shared responsibility for actions relating to the education of children.

*Administrator*—any person who serves in an academic leadership role at the school-level and is employed in a professional capacity other than a teacher. Principals, assistant principals, and academic deans shall be considered *administrators* according to this definition.

*Beginning Teacher*—any teacher in their first three years of the profession.

*Board*—state Board of Elementary and Secondary Education.

*Certified School Personnel*—those persons whose positions require certification.

*Charter School*—an independent public school that provides a program of elementary and/or secondary education established pursuant to and in accordance with the provisions of the Louisiana Charter School Law to provide a learning environment that will improve student achievement.

*Classroom Visitation*—an informal visit to a classroom of sufficient duration to monitor progress toward achievement of professional growth plan objectives and to provide support or assistance.

*Common Assessment*—a state-approved assessment to be used for measuring student growth in grades and subjects where value-added data is not available.

*Components of Effective Teaching*—the elements of teaching performance defined by the board in formal, recognized collaboration with educators and other stakeholders involved in education, to be critical to providing effective classroom instruction.

*Competencies*—skills, knowledge, and abilities required to demonstrate a particular level of performance.

*Criteria*—demonstrable levels of performance upon which a judgment may be based.

*Department*—Louisiana Department of Education.

*Due Process*—fair and impartial treatment, including notice and an opportunity to be heard.

*Duties*—those actions normally required of a position as assigned and/or described in the position description that are necessary to enable the class, school, or school district to accomplish its objectives.

*Educational Leader*—a person who is certified to serve in any school or district leadership capacity with the exception of superintendent.

*Evaluation*—process by which a local board monitors continuing performance of its teachers and administrators annually, by considering judgments concerning the professional accomplishments and competencies of a certified employee, as well as other professional personnel, based on a broad knowledge of the area of performance involved, the characteristics of the situation of the individual being evaluated, and the specific standards of performance pre-established for the position.

*Evaluatee*—teacher or administrator undergoing evaluation.

*Evaluator*—one who evaluates; the school principal or assistant principal or respective supervisory level designees charged with evaluating teachers or the superintendent or other LEA-level supervisor charged with evaluating administrators.

*Formal Observation*—repealed.

*Formal Site Visit*—an announced site visit by an administrator's evaluator, that is preceded by a pre-visit conference and followed by a post-visit conference in which the administrator is provided feedback on his/her performance.

*Grievance*—a procedure that provides a fair and objective resolution of complaint by an evaluatee that the evaluation is inaccurate due to evaluator bias, omission, or error.

*Informational Observation*—repealed.

*Intensive Assistance Plan*—the plan that is implemented when it is determined, through the evaluation process, that personnel have not meet the standards of effectiveness. This plan includes:

a. the specific steps the teacher or administrator shall take to improve;

b. the assistance, support, and resources to be provided by the LEA;

c. an expected timeline for achieving the objectives and the procedure for monitoring progress, including observations and conferences; and

d. the action to be taken if improvement is not demonstrated.

*Job Description*—a competency-based summary of the position title, qualification, supervisor, supervisory responsibilities, duties, job tasks, and standard performance criteria, including improving student achievement, that specify the level of job skill required. Space shall be provided for signature and date.

*Local Board*—governing authority of the local education agency, parish/city school or local school system.

*Local Education Agency (LEA)*—city, parish, or other local public school system, including charter schools.

*Non-Tested Grades and Subjects (NTGS)*—grades and subjects for which a value-added score is not available for teachers or other certified personnel.

*Objective*—a devised accomplishment that can be verified within a given time, under specifiable conditions, and by evidence of achievement.

*Observation*—the process of gathering facts, noting occurrences, and documenting evidence of performance and delivering aligned, individualized feedback to the evaluatee.

*Observer*—one who gathers evidence to be used in the evaluation process through the observation of educator performance.

*Performance Expectations*—the elements of effective leadership approved by the board that shall be included as evaluation criteria for all building-level administrators.

*Performance Standards*—the behaviors and actions upon which performance is evaluated.

*Post-Observation Conference*—a discussion between the evaluatee and evaluator for the purpose of reviewing an observation and sharing commendations, insights, and recommendations for improvement.

*Pre-Observation Conference*—a discussion between the evaluatee and the evaluator which may occur prior to an observation; the purposes are to share information about the lesson to be observed and to clarify questions that may occur after reviewing of the lesson plan.

*Professional Growth Plan*—a written plan developed to enhance the skills and performance of an evaluatee. The plan includes:

a. specific goal(s);

b. objective(s);

c. action plans;

d. timelines;

e. opportunities for reflection; and

f. evaluation criteria.

*Self-Evaluation/Self-Reflection*—the process of making considered judgments of one's own performance concerning professional accomplishments and competencies as a certified employee or other professional person based upon personal knowledge of the area of performance involved, the characteristics of the given situation, and the specific standards for performance pre-established for the position; to

be submitted by the evaluatee to the appropriate evaluator for use in the compilation of the individual's evaluation.

*Standard Certificate*—a credential issued by the state to an individual who has met all requirements for full certification as a teacher.

*Standard of Effectiveness*—adopted by the state Board of Elementary and Secondary Education as the final composite score required for teacher or administrator performance to be considered effective.

*Student-Learning Target*—a goal which expresses an expectation of growth in student achievement over a given period of time, as measured by an identified assessment and/or body of evidence.

*Teacher*—any person who provides direct instruction or direct instructional support to students, to whom he/she has been formally assigned. Classroom *teachers*, special education *teachers*, librarians, and guidance counselors shall be considered *teachers* according to this definition.

*Teachers of Record*—educators who are responsible for a portion of a student's learning outcomes within a subject/course.

*Value-Added*—the use of prior achievement history and appropriate demographic variables to estimate typical achievement outcomes through a statistical model for students in specific content domains based on a longitudinal data set derived from students who take state-mandated tests in Louisiana for the purpose of comparing typical and actual achievement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1222 (May 2012), amended LR 38:2362 (September 2012), LR 39:1275 (May 2013).

Heather Cope  
Executive Director

1305#019

## RULE

### Department of Environmental Quality Office of the Secretary Legal Division

2012 Annual Incorporation by Reference  
of Certain Federal Air Quality Regulations  
(LAC 33:III.506, 507, 2160, 3003,  
5116, 5122, 5311 and 5901)(AQ337ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.506, 507, 2160, 3003, 5116, 5122, 5311 and 5901 (AQ337ft).

This Rule is identical to federal regulations found in 40 CFR Part 51, Appendix M, 40 CFR Part 60, 40 CFR Part 61, 40 CFR Part 63, 40 CFR Part 68, 40 CFR Part 70.6(a) and 40 CFR Part 96, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or P.O. Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule will be

promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule incorporates by reference (IBR) into the *Louisiana Administrative Code*, LAC 33:III, the following federal regulations included in the July 1, 2012 edition of the *Code of Federal Regulation* (CFR): 40 CFR Parts 51, Appendix M, 60, 61, 63, 68, 70.6(a), and 96. Any exception to the IBR is explicitly listed in this Rule. The Rule updates the references to July 1, 2012, for Standard of Performance for New Stationary Sources, 40 CFR Part 60. In addition, the provisions of 40 CFR Part 60 Subpart OOOO are incorporated by reference, establishing new source performance standards for crude oil and natural gas production, along with the transmission and distribution industry. This Rule also updates the references to July 1, 2012, for the National Emission Standards for Hazardous Air Pollutants (NESHAP) and for NESHAP for source categories, 40 CFR Parts 61 and 63. In order for Louisiana to maintain equivalency with federal regulations, certain regulations in the July 1, 2012 edition of the *Code of Federal Regulations* must be adopted into the *Louisiana Administrative Code*. This rulemaking is also necessary to maintain delegation authority granted to Louisiana by the Environmental Protection Agency.

The basis and rationale for this Rule are to mirror the federal regulations as they apply to Louisiana's affected sources.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

## Title 33 ENVIRONMENTAL QUALITY Part III. Air

### Chapter 5. Permit Procedures

#### §506. Clean Air Interstate Rule Requirements

A. - B.4. ...

C. Annual Sulfur Dioxide. Except as specified in this Section, The federal SO<sub>2</sub> model rule, published in the *Code of Federal Regulation* at 40 CFR Part 96, July 1, 2012, is hereby incorporated by reference, except for Subpart III-CAIR SO<sub>2</sub> OPT-in Units and all references to opt-in units.

D. The volumes containing those federal regulations incorporated by reference may be obtained from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402 or their website, [www.gpoaccess.gov/cfr/index.html](http://www.gpoaccess.gov/cfr/index.html).

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:1597 (September 2006), amended LR 33:1622 (August 2007), LR 33:2083 (October 2007), LR 34:978 (June 2008), LR 35:1107 (June 2009), LR 36:2272 (October 2010), repromulgated LR 36:2551 (November 2010), amended LR 37:2989 (October 2011), LR 38:1229 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1276 (May 2013).

#### §507. Part 70 Operating Permits Program

A. - B.1. ...

2. No Part 70 source may operate after the time that the owner or operator of such source is required to submit a permit application under Subsection C of this Section, unless

an application has been submitted by the submittal deadline and such application provides information addressing all applicable sections of the application form and has been certified as complete in accordance with LAC 33:III.517.B.1. No Part 70 source may operate after the deadline provided for supplying additional information requested by the permitting authority under LAC 33:III.519, unless such additional information has been submitted within the time specified by the permitting authority. Permits issued to the Part 70 source under this Section shall include the elements required by 40 CFR 70.6. The department hereby adopts and incorporates by reference the provisions of 40 CFR 70.6(a), July 1, 2012. Upon issuance of the permit, the Part 70 source shall be operated in compliance with all terms and conditions of the permit. Noncompliance with any federally applicable term or condition of the permit shall constitute a violation of the Clean Air Act and shall be grounds for enforcement action; for permit termination, revocation and reissuance, or revision; or for denial of a permit renewal application.

C. - J.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011, 2023, 2024, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 20:1375 (December 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:1008 (May 2004), amended by the Office of Environmental Assessment, LR 31:1061 (May 2005), LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2437 (October 2005), LR 32:808 (May 2006), LR 33:1619 (August 2007), LR 33:2083 (October 2007), LR 33:2630 (December 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:2272 (October 2010), LR 37:2990 (October 2011), LR 38:1229 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1276 (May 2013).

## **Chapter 21. Control of Emission of Organic Compounds**

### **Subchapter N. Method 43—Capture Efficiency Test Procedures**

Editor's Note: This Subchapter was moved and renumbered from Chapter 61 (December 1996).

#### **§2160. Procedures**

A. Except as provided in Subsection C of this Section, the regulations at 40 CFR Part 51, Appendix M, July 1, 2012, are hereby incorporated by reference.

B. - C.2.b.iv. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 23:1680 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1224 (August 2001), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:809 (May 2006), LR 33:1620 (August 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:2272 (October 2010), LR 37:2990 (October 2011), LR 38:1230 (May

2012), amended by the Office of the Secretary, Legal Division, LR 39:1277 (May 2013).

## **Chapter 30. Standards of Performance for New Stationary Sources (NSPS)**

### **Subchapter A. Incorporation by Reference**

#### **§3003. Incorporation by Reference of 40 Code of Federal Regulations (CFR) Part 60**

A. Except for 40 CFR Part 60, Subpart AAA, and as modified in this Section, Standards of Performance for New Stationary Sources, published in the *Code of Federal Regulations* at 40 CFR Part 60, July 1, 2012, are hereby incorporated by reference as they apply to the state of Louisiana. Also incorporated by reference are the following revisions to 40 CFR Part 60; Subpart OOOO as promulgated on August 16, 2012, in the *Federal Register*, 77 FR 49490-49600.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1239 (July 1999), LR 25:1797 (October 1999), LR 26:1607 (August 2000), LR 26:2460, 2608 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 28:2179 (October 2002), LR 29:316 (March 2003), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005), LR 32:809 (May 2006), LR 32:1596 (September 2006), LR 33:1620 (August 2007), LR 33:2092 (October 2007), LR 33:2626 (December 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:2273 (October 2010), LR 37:2990 (October 2011), LR 38:1230 (May 2012), amended by the Office of the Secretary, Legal Division, LR 38:2754 (November 2012), LR 39:1039 (April 2013), LR 39:1277 (May 2013).

## **Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program**

### **Subchapter B. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)**

#### **§5116. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)**

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants, published in the *Code of Federal Regulations* at 40 CFR Part 61, July 1, 2012, and specifically listed in the following table, are hereby incorporated by reference as they apply to sources in the state of Louisiana.

40 CFR Part 61	Subpart/Appendix Heading
***	
[See Prior Text in Subpart A - Appendix C]	

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1658 (December 1997), LR 24:1278 (July 1998),

amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1797 (October 1999), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2179 (October 2002), LR 29:699 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2448 (October 2005), LR 32:809 (May 2006), LR 33:1620 (August 2007), LR 33:2094 (October 2007), LR 34:1391 (July 2008), LR 35:1108 (June 2009), LR 36:2273 (October 2010), LR 37:2990 (October 2011), LR 38:1230 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1277 (May 2013).

**Subchapter C. Incorporation by Reference of 40 CFR  
Part 63 (National Emission Standards for  
Hazardous Air Pollutants for Source  
Categories) as It Applies to Major  
Sources**

**§5122. Incorporation by Reference of 40 CFR Part 63  
(National Emission Standards for Hazardous Air  
Pollutants for Source Categories) as It Applies to  
Major Sources**

A. Except as modified in this Section and specified below, national emission standards for hazardous air pollutants for source categories, published in the *Code of Federal Regulations* at 40 CFR Part 63, July 1, 2012, are hereby incorporated by reference as they apply to major sources in the state of Louisiana.

B. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1278 (July 1998), LR 24:2240 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1798 (October 1999), LR 26:690 (April 2000), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 29:1474 (August 2003), LR 30:1010 (May 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2449 (October 2005), LR 31:3115 (December 2005), LR 32:810 (May 2006), LR 33:1620 (August 2007), LR 33:2095 (October 2007), LR 33:2627 (December 2007), LR 34:1392 (July 2008), LR 35:1108 (June 2009), LR 36:2273 (October 2010), LR 37:2991 (October 2011), LR 38:1231 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1278 (May 2013).

**Chapter 53. Area Sources of Toxic Air Pollutants  
Subchapter B. Incorporation by Reference of 40 CFR  
Part 63 (National Emission Standards for  
Hazardous Air Pollutants for Source  
Categories) as It Applies to Area Sources**

**§5311. Incorporation by Reference of 40 CFR Part 63  
(National Emission Standards for Hazardous Air  
Pollutants for Source Categories) as It Applies to  
Area Sources**

A. Except as modified in this Section and specified below, national emission standards for hazardous air pollutants for source categories, published in the *Code of Federal Regulations* at 40 CFR Part 63, July 1, 2012, are hereby incorporated by reference as they apply to area sources in the state of Louisiana.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:63 (January 1997), amended LR 23:1660 (December 1997), LR 24:1279 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2451 (October 2005), LR 32:810 (May 2006), LR 33:1620 (August 2007), LR 33:2096 (October 2007), LR 34:1392 (July 2008), LR 35:1108 (June 2009), LR 36:2274 (October 2010), LR 37:2991 (October 2011), LR 38:1231 (May 2012), amended by the Office of the Secretary, Legal Division, LR 38:2756 (November 2012), LR 39:1278 (May 2013).

**Chapter 59. Chemical Accident Prevention and  
Minimization of Consequences**

**Subchapter A. General Provisions**

**§5901. Incorporation by Reference of Federal  
Regulations**

A. Except as provided in Subsection C of this Section, the department incorporates by reference 40 CFR Part 68, July 1, 2012.

B. - C.6. ...

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:421 (April 1994), amended LR 22:1124 (November 1996), repromulgated LR 22:1212 (December 1996), amended LR 24:652 (April 1998), LR 25:425 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:70 (January 2000), LR 26:2272 (October 2000), LR 28:463 (March 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 30:2463 (November 2004), LR 31:1570 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:810 (May 2006), LR 33:1621 (August 2007), LR 34:1392 (July 2008), LR 35:1109 (June 2009), LR 36:2274 (October 2010), LR 37:2991 (October 2011), LR 38:1231 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1278 (May 2013).

Herman Robinson, CPM  
Executive Counsel

1305#009

**RULE**

**Department of Environmental Quality  
Office of the Secretary  
Legal Division**

Control Facilities to be Installed When Feasible  
(LAC 33:III.905)(AQ338)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.905 (AQ338).

This Rule allows the department to provide an exemption to the requirements of LAC 33:III.905.A in limited circumstances. When the Environmental Protection Agency (EPA) promulgates a new Rule, the administrator generally provides several years for owners or operators of affected facilities to install the necessary control equipment or otherwise modify their processes or work practices to comply with the rule's requirements. For example, section 112(i)(3)(A) of the Clean Air Act states that "the Administrator shall establish a compliance date or dates ... which shall provide for compliance as expeditiously as practicable, but in no event later than three years after the effective date of such standard..." Owners or operators of affected facilities commence construction and sometimes operation of the requisite control equipment in this period between the effective date and compliance date of the Rule.

Currently, LAC 33:III.905.A requires air pollution control facilities to "be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities," regardless of the circumstances. Thus, even if a court subsequently vacates and remands the rule for which the control equipment was required to comply, rendering it legally void (such as in the case of the cross-state air pollution rule), LAC 33:III.905.A mandates the use or continued use of any "air pollution control facilities" installed. There are often considerable costs associated with the operation and maintenance of control equipment (e.g., the ammonia required for selective catalytic reduction; the ammonia or urea required for selective non-catalytic reduction; efficiency losses due to parasitic load). These costs must be borne by the owner or operator of the affected facility or passed along to its customers.

Therefore, this Rule provides a narrow exemption to LAC 33:III.905.A. It allows the department to grant an exemption to the owner or operator of an air pollution control facility installed solely to comply with a proposed federal or state regulation that fails to be promulgated or a final federal or state regulation that is vacated and remanded, provided the owner or operator can comply with all emissions limitations prescribed by the stationary source's air permit without use of the air pollution control facility in question.

The basis and rationale for this Rule is to provide an exemption to the requirements of LAC 33:III.905.A.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

### **Title 33**

## **ENVIRONMENTAL QUALITY**

### **Part III. Air**

#### **Chapter 9. General Regulations on Control of Emissions and Emission Standards**

##### **§905. Control Facilities to be Installed When Feasible**

A. Except as provided in Subsection B of this Section, to aid in controlling the overall levels of air contaminants into the atmosphere, air pollution control facilities should be installed whenever practically, economically, and technologically feasible. When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though

the ambient air quality standards in affected areas are not exceeded.

#### **B. Exemptions**

1. The provisions of Subsection A of this Section shall not apply when the controls are installed to comply with a regulation that explicitly limits the required use of the controls to specific circumstances or times.

2. The administrative authority may grant a written exemption to the owner or operator of the air pollution control facility.

a. An exemption may be granted when the air pollution control facility has been installed, but not operated solely to comply with:

i. a proposed federal or state regulation that has not been adopted and promulgated; or

ii. a final federal or state regulation that has been vacated and remanded by a court of proper jurisdiction and is no longer effective.

b. An exemption shall not authorize:

i. the noncompliance with any limit, standard, or requirement otherwise provided in a permit or other regulation; or

ii. a physical change or change in the method of operation of the facility that increases emissions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of the Secretary, Legal Division, LR 39:1279 (May 2013).

Herman Robinson, CPM  
Executive Counsel

1305#010

### **RULE**

#### **Department of Environmental Quality Office of the Secretary Legal Division**

##### **Regulated New Source Review (NSR) Pollutant (LAC 33:III.509)(AQ340ft)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.509 (AQ340ft).

This Rule is identical to federal regulations found in 40 CFR 51.166(b)(49), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or P.O. Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule will revise the definition of *regulated new source review (NSR) pollutant* in LAC 33:III.509.B consistent with the corrected federal definition at 40 CFR 51.166(b)(49). On October 25, 2012, the Environmental Protection Agency (EPA) revised the definition of "regulated NSR pollutant" to correct "an inadvertent error made in

2008 when the EPA issued its rule to implement the New Source Review (NSR) program for fine particles with an aerodynamic diameter of less than or equal to 2.5 micrometers (PM<sub>2.5</sub>).” The revision to the federal rule “removes a general requirement in the definition of ‘regulated NSR pollutant’ to include condensable PM when measuring one of the emissions-related indicators for particulate matter (PM) known as ‘particulate matter emissions’ in the context of the PSD and NSR regulations.”

LDEQ adopted the provisions of the aforementioned 2008 rule (i.e., “Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers (PM<sub>2.5</sub>),” 73 FR 28321, May 16, 2008) on June 20, 2011 (AQ318).

The basis and rational for this Rule are to revise the definition of *regulated new source review (NSR) pollutant* in LAC 33:III.509.B.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

### **Title 33 ENVIRONMENTAL QUALITY Part III. Air**

#### **Chapter 5. Permit Procedures**

##### **§509. Prevention of Significant Deterioration**

A. - A.5. ...

B. Definitions. For the purpose of this Section, the terms below shall have the meaning specified herein as follows.

\* \* \*

##### *Regulated New Source Review (NSR) Pollutant—*

a. - d. ...

e. PM<sub>2.5</sub> emissions and PM<sub>10</sub> emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On or after January 1, 2011, such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM<sub>2.5</sub> and PM<sub>10</sub> in PSD permits. Compliance with emissions limitations for PM<sub>2.5</sub> and PM<sub>10</sub> issued prior to this date shall not be based on condensable particulate matter. Applicability determinations made prior to this date without accounting for condensable particulate matter shall not be considered in violation of this Section.

\* \* \*

C. - AA.15.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), LR 16:613 (July 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:478 (May 1991), LR 21:170 (February 1995), LR 22:339 (May 1996), LR 23:1677 (December 1997), LR 24:654 (April 1998), LR 24:1284 (July 1998), repromulgated LR 25:259 (February 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2234 (December 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2437 (October 2005), LR 31:3135, 3156 (December 2005), LR 32:1600 (September 2006),

LR 32:1843 (October 2006), LR 36:2556 (November 2010), LR 37:1148 (April 2011), repromulgated LR 37:1389 (May 2011), LR 37:1570 (June 2011), repromulgated LR 37:2146 (July 2011), amended by the Office of the Secretary, Legal Division, LR 38:3163 (December 2012), LR 39:1280 (May 2013).

Herman Robinson, CPM  
Executive Counsel

1305#008

### **RULE**

#### **Office of the Governor Division of Administration Office of State Purchasing**

Pre-Printed Contract Forms; Clauses; Approval  
(LAC 34:I.5515)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:953 et seq. the Office of the Governor, Division of Administration, Office of State Purchasing, has adopted §5515, Pre-Printed Contract Forms; Clauses; Approval, allowing the state to use vendors’ pre-printed data processing related contract forms and creating a process for the review and approval of such forms.

### **Title 34 GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL Part I. Purchasing Subpart 1. Central Purchasing Procedures Chapter 55. Procedures for Information Technology Hardware, Software, Software Maintenance and Support Services, and Hardware Maintenance**

#### **§5515. Pre-Printed Contract Forms; Clauses; Approval**

A. In accordance with the provisions of R.S. 39:200(F) the director of purchasing may approve a vendor’s pre-printed contract form in accordance with the following requirements.

B. All pre-printed contract forms submitted for approval shall, at a minimum, contain the following provisions:

1. the contract shall be governed by the laws of the state of Louisiana;

2. the unilateral right of the state to order in writing changes in the work within the general scope of the contract in any one or more of the following:

a. drawings, designs, or specifications, if the supplies to be furnished are to be specially manufactured for the state in accordance therewith;

b. method of shipment or packing; or

c. place of delivery;

3. the unilateral right of the state to order in writing temporary stopping of the work or delaying of performance;

4. variations between estimated quantities of work in a contract and actual quantities;

5. termination of the contract for vendor’s default;

6. termination of the contract in whole or in part for the convenience of the state;



7. the vendor agrees continuation of contracts in effect during more than one fiscal year is contingent upon the appropriation of funds to fulfill the requirements of the contract by the legislature. If the legislature fails to appropriate sufficient monies to provide for the continuation of the contract or if such appropriation is reduced by the veto of the Governor or by any means provided in the appropriations act or Title 39 of the Louisiana Revised Statutes of 1950 to prevent the total appropriation for the year from exceeding revenues for that year, or for any other lawful purpose, and the effect of such reduction is to provide insufficient monies for the continuation of the contract, the contract shall terminate on the date of the beginning of the first fiscal year for which funds are not appropriated.

C. If applicable, the following provisions may be included as negotiated by the parties and approved by the director of purchasing:

1. liquidated damages as appropriate;
2. specified excuses for delay or nonperformance;
3. the vendor shall agree to indemnify the state and hold the state harmless
4. the vendor shall agree to secure and maintain insurance;

D. The director of purchasing may approve a vendor's pre-printed contract form with the participation of the procurement support team.

E. A pre-printed contract form that has been approved shall display the following language adjacent to its title: "This contract form has been approved by the director of state purchasing."

F. The pre-printed contract form shall also display in the form footer the contract approval date and the contract version number as provided by the director of state purchasing.

G. In the event any contractor fails to fulfill or comply with the terms of any contract, the director of purchasing may rescind approval of the vendor's pre-printed contract form.

H. Only those terms and conditions contained in the pre-printed form approved by the director of purchasing shall have any effect between the parties and any reference to or inclusion of other terms and conditions contained in other documents or websites is prohibited.

I. Any alterations or changes to the terms and conditions of the approved pre-printed form are prohibited and will automatically void the approval of the pre-printed form.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 39:200(F).

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 39:1280 (May 2013).

Jan B. Cassidy  
Assistant Commissioner

1302#038

## **RULE**

### **Office of the Governor Division of Administration Racing Commission**

#### **Disputed Races (LAC 35:IX.9105)**

The Louisiana state Racing Commission hereby amends Disputed Race (LAC 35:IX.9105) as follows.

#### **Title 35**

#### **HORSE RACING**

#### **Part IX. Weights**

#### **Chapter 91. Weight Penalties and Allowances**

#### **§9105. Disputed Race**

A. When the decision of a race is in dispute, all horses involved in the dispute with respect to the winner's credit shall be liable to all penalties, including conditions and weights, attached to the winning of that race until a winner has been adjudged.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:148.

**HISTORICAL NOTE:** Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:443 (December 1976), amended LR 3:39 (January 1977), LR 4:284 (August 1978), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 39:1281 (May 2013).

Charles A. Gardiner III  
Executive Director

1305#004

## **RULE**

### **Office of the Governor Division of Administration Racing Commission**

#### **Nonsteroidal and/or Anti-Inflammatory Medication (LAC 35:I.1505)**

The Louisiana state Racing Commission hereby amends Nonsteroidal and/or Anti-Inflammatory Medication (LAC 35:I.1505) as follows.

#### **Title 35**

#### **HORSE RACING**

#### **Part I. General Provisions**

#### **Chapter 15. Permitted Medication**

#### **§1505. Nonsteroidal and/or Anti-Inflammatory Medication**

A. - B. ...

C. For all horses entered in a graded or listed stakes race, the maximum analytical test result levels of the blood of such horse, regardless of time of administration, shall be as follows.

Post-Race Blood Level	Total of Drug and/or Metabolite
Phenylbutazone	2.0 micrograms per milliliter

AUTHORITYNOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:142.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 9:547 (August 1983), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 37:1393 (May 2011), LR 38:1408 (June 2012), LR 39:1281 (May 2013).

Charles A. Gardiner III  
Executive Director

1305#005

## RULE

### Department of Health and Hospitals Board of Dentistry

Reuse of Toothbrush; Continuing Education Requirements;  
Examination of Dentists  
(LAC 46:XXXIII.305, 1611, and 1709)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), the Department of Health and Hospitals, Board of Dentistry repeals LAC 46:XXXIII.305 and amends LAC 46:XXXIII.1611 and 1709.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XXXIII. Dental Health Profession

#### Chapter 3. Dentists

#### §305. Reuse of Toothbrush in Dental Office Prohibited Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Dentistry, LR 13:180 (March 1987), repealed LR 39:1282 (May 2013).

#### Chapter 16. Continuing Education Requirements

#### §1611. Continuing Education Requirements for Relicensure of Dentists

A. - H. ...

1.1. Dentists who successfully complete certification courses in advanced cardiac life support continuing education will be awarded up to 16 hours of clinical continuing dental education. However, dentists completing the shorter recertification course in advanced cardiac life support will be awarded 3 hours of clinical continuing dental education.

2. Dentists who successfully complete the certification courses in pediatric advanced cardiac life support continuing education will be awarded up to 14 hours of clinical continuing dental education. However, dentists completing the shorter recertification course in PALS will be awarded 6 hours of clinical continuing dental education.

3. Only one cardiopulmonary resuscitation course per renewal period may be counted toward the continuing education requirement.

J. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:661 (June 1994), amended LR 21:569 (June 1995), LR 22:24 (January 1996), LR 22:1216 (December 1996), LR 23:1526 (November 1997), LR 24:1117 (June 1998), LR 25:510 (March 1999), LR 26:489 (March 2000), LR 30:2307 (October 2004), LR 32:244 (February 2006), LR 35:1237 (July 2009), LR 36:2038 (September 2010), LR 37:2151 (July 2011), LR 37:3515 (December 2011), repromulgated LR 38:356 (February 2012), amended LR 38:817 (March 2012), LR 38:1959 (August 2012), LR 39:1282 (May 2013).

#### Chapter 17. Licensure Examinations

#### §1709. Examination of Dentists

A. ...

B. An applicant shall be entitled to take the examinations required in this Section to practice dentistry in this state if such applicant:

1. - 3. ...

4. has successfully completed the National Board of Dental Examiners dental examination.

C. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1119 (June 1998), amended LR 28:2513 (December 2002), LR 33:2654 (December 2007), LR 37:1407 (May 2011), LR 37:2151 (July 2011), LR 37:3516 (December 2011), repromulgated LR 38:356 (February 2012), amended LR 38:1959 (August 2012), LR 39:1282 (May 2013).

Peyton B. Burkhalter  
Executive Director

1305#067

## RULE

### Department of Health and Hospitals Board of Pharmacy

Hospital Off-Site Satellite Pharmacy  
(LAC 46:LIII.1503 and 1525)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby amends its Chapter of rules for hospital pharmacies to authorize the use of satellite pharmacies by pharmacies located within hospitals. The Rule identifies the credentialing requirements and standards of practice applicable to such satellite pharmacies.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LIII. Pharmacists

#### Chapter 15. Hospital Pharmacy

#### §1503. Definitions

A. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section.

*Hospital Off-Site Satellite Pharmacy*—a pharmacy located within a hospital licensed by the Louisiana Department of Health and Hospitals, or its successor, the location of which is physically separate from the location of the provider pharmacy.

\* \* \*

*Provider Pharmacy*—a hospital pharmacy which provides administrative control, staffing as well as products and services to a hospital off-site satellite pharmacy.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1182.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2093 (October 2003), effective January 1, 2004, LR 33:1132 (June 2007), LR 39:1282 (May 2013).

#### **§1525. Hospital Off-Site Satellite Pharmacy**

##### **A. Issuance and Maintenance of Permit**

1. A hospital pharmacy may establish a hospital off-site satellite pharmacy within a facility bearing the same hospital license number as the facility housing the provider pharmacy.

2. The provider pharmacy, acting through its pharmacist-in-charge, shall make application for the satellite pharmacy permit using a form and process specified by the board.

3. The applicant shall pay the fee for the initial issuance and renewal as specified in R.S. 37:1184.

4. Once issued, the satellite pharmacy permit shall expire at midnight on December 31 of each year, unless suspended or revoked earlier by the board.

5. The satellite pharmacy shall renew its permit using the form and process specified by the board.

6. The operation of a hospital off-site satellite pharmacy without a pharmacy permit, or with an expired permit, shall constitute a violation of R.S. 37:1241(A)12.

7. In the event a provider pharmacy sustains a change of ownership sufficient to require a new pharmacy permit, the hospital off-site satellite pharmacy shall also obtain a new pharmacy permit.

8. In the event a provider pharmacy closes permanently and surrenders its permit, the hospital off-site satellite pharmacy shall also close and surrender its permit.

##### **B. General Requirements**

1. The hospital off-site satellite pharmacy shall be of sufficient size and shall contain sufficient fixtures, equipment and supplies commensurate with the scope of practice for that pharmacy, provided:

a. the pharmacy shall be of sufficient size to allow for the safe and proper storage of prescription drugs and/or controlled substances;

b. all areas where drugs and devices are stored shall be dry, well-lighted, well ventilated, and maintained in a clean and orderly condition, and more specifically, storage areas shall be maintained at temperatures which will ensure the integrity of the drugs prior to their dispensing as stipulated by the United States Pharmacopeia (USP) and/or the manufacturer's or distributor's product labeling unless otherwise indicated by the board;

c. the pharmacy shall be secured by either a physical barrier with suitable locks and/or an electronic barrier to detect entry at a time when the pharmacist is not present; and

d. prescription and other patient healthcare information shall be maintained in a manner that protects the integrity and confidentiality of such information.

2. The pharmacist-in-charge of the provider pharmacy shall be responsible for all pharmacy operations involving the hospital off-site satellite pharmacy including supervision of pharmacy personnel.

3. The hospital off-site satellite pharmacy shall have at least one licensed pharmacist on duty and physically present in the pharmacy at all times the hospital off-site satellite pharmacy is open for the transaction of business.

4. The hospital off-site satellite hospital pharmacy shall have a sufficient number of pharmacists on duty to operate the pharmacy competently, safely, and adequately to meet the needs of the patients of the pharmacy.

5. When the hospital off-site satellite pharmacy is closed or there is no pharmacist on duty, other individuals shall not have access to the hospital off-site satellite pharmacy except for temporary absences as provided for in Chapter 11 of these rules.

6. The provider pharmacy and the hospital off-site satellite pharmacy shall have:

a. the same owner; and

b. share a common electronic file or have the appropriate technology to allow access to sufficient information necessary or required to process a prescription or medical order.

7. The hospital off-site satellite pharmacy shall comply with the recordkeeping provisions identified in Chapter 11 of these rules.

8. The compounding of preparations in a hospital off-site satellite pharmacy shall be accomplished in compliance with the current federal standards applicable to such practices, USP, chapter 797, or its successor, for the compounding of sterile preparations, and USP, chapter 795, or its successor, for the compounding of non-sterile preparations.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1182.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 39:1283 (May 2013).

Malcolm J. Broussard  
Executive Director

1305#022

#### **RULE**

#### **Department of Health and Hospitals Bureau of Health Services Financing**

End Stage Renal Disease Facilities  
Reimbursement Rate Reduction  
(LAC 50:XI.6901 and 6903)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:XI.6901 and §6903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part XI. Clinic Services**  
**Subpart 9. End Stage Renal Disease Facilities**  
**Chapter 69. Reimbursement**

**§6901. General Provisions**

A. - F. ...

G. Effective for dates of service on or after July 1, 2012, the reimbursement to ESRD facilities shall be reduced by 3.7 percent of the rates in effect on June 30, 2012.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1022 (May 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1891 (September 2009), LR 36:2040 (September 2010), LR 37:1599 (June 2011), LR 39:1284 (May 2013).

**§6903. Medicare Part B Claims**

A. - F. ...

G. Effective for dates of service on or after July 1, 2012, the reimbursement to ESRD facilities for Medicare Part B claims shall be reduced by 3.7 percent of the rates in effect on June 30, 2012.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1891 (September 2009), amended LR 36:2040 (September 2010), LR 37:1599 (June 2011), LR 39:1284 (May 2013).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Kathy H. Kliebert  
Interim Secretary

1305#038

**RULE**

**Department of Health and Hospitals**  
**Bureau of Health Services Financing**

Laboratory and Radiology Services  
Reimbursement Rate Reduction  
(LAC 50:XIX.4329 and 4334-4337)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:XIX.4329 and §§4334-4337 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part XIX. Other Services**  
**Subpart 3. Laboratory and X-Ray**  
**Chapter 43. Billing and Reimbursement**  
**§4329. Laboratory Services (Physicians and Independent Laboratories)**

A. - J. ...

K. Effective for dates of service on or after July 1, 2012, the reimbursement rates for laboratory services shall be reduced by 3.7 percent of the fee amounts on file as of June 30, 2012.

L. - L.3.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 49:1008(A), P.L. 98-369, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1025 (May 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1897 (September 2009), LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:3028 (October 2011), LR 39:95 (January 2013), LR 39:1284 (May 2013).

**§4334. Radiology Services**

A. - I. ...

J. Effective for dates of service on or after July 1, 2012, the reimbursement rates for radiology services shall be reduced by 3.7 percent of the fee amounts on file as of June 30, 2012.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1897 (September 2009), amended LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:3029 (October 2011), LR 39:1284 (May 2013).

**§4335. Portable Radiology Services**

A. - G. ...

H. Effective for dates of service on or after July 1, 2012, the reimbursement rates for portable radiology services shall be reduced by 3.7 percent of the fee amounts on file as of June 30, 2012.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1026 (May 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1898 (September 2009), LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:3029 (October 2011), LR 39:1284 (May 2013).

**§4337. Radiation Therapy Centers**

A. - G. ...

H. Effective for dates of service on or after July 1, 2012, the reimbursement rates for radiology services provided by radiation therapy centers shall be reduced by 3.7 percent of the fee amounts on file as of June 30, 2012.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1898 (September 2009), amended LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:3029 (October 2011), LR 39:1284 (May 2013).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Kathy H. Kliebert  
Interim Secretary

1305#039

## RULE

### Department of Health and Hospitals Bureau of Health Services Financing

#### LaCHIP Affordable Plan Dental Program Reimbursement Rate Reduction (LAC 50:III.20509)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 50:III.20509 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

#### Title 50

#### PUBLIC HEALTH—MEDICAL ASSISTANCE

##### Part III. Eligibility

#### Subpart 11. State Children's Health Insurance Program Chapter 205. Louisiana Children's Health Insurance Program (LaCHIP)—Phase V

##### §20509. Dental Services Reimbursement Methodology

A. Services covered in the LaCHIP Affordable Plan Dental Program shall be reimbursed at the lower of either:

1. the dentist's billed charges minus any third party coverage; or
2. the state's established schedule of fees, which is developed in consultation with the Louisiana Dental Association and the Medicaid dental consultants, minus any third party coverage.

B. Effective for dates of service on or after July 1, 2012, the reimbursement fees for LaCHIP Affordable Plan dental services shall be reduced to the following percentages of the 2009 National Dental Advisory Service comprehensive fee report 70th percentile, unless otherwise stated in this Chapter:

1. 65 percent for the following oral evaluation services:
    - a. periodic oral examination;
    - b. oral examination-patients under 3 years of age; and
    - c. comprehensive oral examination-new patients;
  2. 62 percent for the following annual and periodic diagnostic and preventive services:
    - a. radiographs-periapical, first film;
    - b. radiographs-periapical, each additional film;
    - c. radiographs-panoramic film;
    - d. diagnostic casts;
    - e. prophylaxis-adult and child;
    - f. topical application of fluoride, adult and child (prophylaxis not included); and
    - g. topical fluoride varnish, therapeutic application for moderate to high caries risk patients (under 6 years of age);
  3. 45 percent for the following diagnostic and adjunctive general services:
    - a. oral/facial image;
    - b. non-intravenous conscious sedation; and
    - c. hospital call; and
  4. 56 percent for the remainder of the dental services.
- C. Removable prosthodontics and orthodontic services are excluded from the July 1, 2012 rate reduction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XXI of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:1285 (May 2013).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Kathy H. Kliebert  
Interim Secretary

1305#040

## RULE

### Department of Health and Hospitals Bureau of Health Services Financing

#### Medical Transportation Program Emergency Ambulance Services Reimbursement Rate Reduction (LAC 50:XXVII.325 and 353)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:XXVII.325 and §353 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

#### Title 50

#### PUBLIC HEALTH—MEDICAL ASSISTANCE

##### Part XXVII. Medical Transportation Program

#### Chapter 3. Emergency Medical Transportation

##### Subchapter B. Ground Transportation

##### §325. Reimbursement

A. - H. ...

I. Effective for dates of service on or after July 1, 2012, the reimbursement rates for emergency ambulance transportation services shall be reduced by 5.25 percent of the rates on file as of June 30, 2012.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:878 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1248 (June 2010), amended LR 36:2564 (November 2010), amended LR 37:3029 (October 2011), LR 39:1285 (May 2013).

##### Subchapter C. Aircraft Transportation

##### §353. Reimbursement

A. - F. ...

G. Effective for dates of service on or after July 1, 2012, the reimbursement rates for fixed winged and rotor winged emergency air ambulance services shall be reduced by 5.25 percent of the rates on file as of June 30, 2012.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:70 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services

Financing, LR 36:2594 (November 2010), amended LR 37:3029 (October 2011), LR 39:1285 (May 2013).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Kathy H. Kliebert  
Interim Secretary

1305#041

## **RULE**

### **Department of Health and Hospitals Bureau of Health Services Financing**

#### **Nursing Facilities—Per Diem Rate Reduction (LAC 50:II.20005)**

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:II.20005 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

#### **Title 50**

#### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

##### **Part II. Nursing Facilities**

##### **Subpart 5. Reimbursement**

#### **Chapter 200. Reimbursement Methodology**

#### **§20005. Rate Determination**

**[Formerly LAC 50:VII.1305]**

A. - N. ...

O. Effective for dates of service on or after July 1, 2013, the per diem rate paid to non-state nursing facilities, excluding the provider fee, shall be reduced by \$53.05 of the rate in effect on June 30, 2013 until such time that the rate is rebased.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1791 (August 2002), amended LR 31:1596 (July 2005), LR 32:2263 (December 2006), LR 33:2203 (October 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:325 (February 2010), repromulgated LR 36:520 (March 2010), amended LR 36:1556 (July 2010), LR 36:1782 (August 2010), LR 36:2566 (November 2010), LR 37:092 (March 2011), LR 37:1174 (April 2011), LR 37:2631 (September 2011), LR 38:1241 (May 2012), LR39:1286 (May 2013).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Kathy H. Kliebert  
Interim Secretary

1305#042

## **RULE**

### **Department of Health and Hospitals Bureau of Health Services Financing**

#### **Pediatric Day Health Care Program Reimbursement Rate Reduction (LAC 50:XV.28101)**

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:XV.28101 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

#### **Title 50**

#### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

##### **Part XV. Services For Special Populations**

##### **Subpart 19. Pediatric Day Health Care**

#### **Chapter 281. Reimbursement Methodology**

#### **§28101. General Provisions**

A. - B. ...

C. Effective for dates of service on or after July 1, 2012, the reimbursement for pediatric day health care services shall be reduced by 3.7 percent of the rates in effect on June 30, 2012.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1558 (July 2010), amended LR 39:1286 (May 2013).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Kathy H. Kliebert  
Interim Secretary

1305#043

## **RULE**

### **Department of the Treasury Board of Trustees of the Louisiana State Police Retirement System**

#### **Internal Revenue Code Provisions (LAC 58:IX.Chapter 2)**

In accordance with R.S. 49:950 et seq. of the Administrative Procedure Act, the Board of Trustees of the Louisiana State Police Retirement System has adopted Chapter 2 of Part IX, included in Title 58, Retirement, of the *Louisiana Administrative Code*. The rules have been adopted pursuant to newly enacted R.S. 11:1302.1 (Acts 2011, No. 354), the effective date of enactment of which will be the formal adoption of these rules. Newly enacted R.S. 11:1302.1 provides that rules and regulations be adopted which will assure that the Louisiana State Police Retirement

System will remain a tax-qualified retirement plan under the United States *Internal Revenue Code* and the regulations thereunder. A preamble to this action has not been prepared.

## **Title 58**

### **RETIREMENT**

#### **Part IX. State Police Retirement System**

##### **Chapter 2. Internal Revenue Code Provisions**

###### **§201. Limitation on Benefits**

A. The limitations of this Chapter shall apply in limitation years beginning on or after July 1, 2007, except as otherwise provided herein.

B. The annual benefit otherwise payable to a member under the plan at any time shall not exceed the maximum permissible benefit. If the benefit the member would otherwise accrue in a limitation year would produce an annual benefit in excess of the maximum permissible benefit, the benefit shall be limited (or the rate of accrual reduced) to a benefit that does not exceed the maximum permissible benefit.

C. If the member is, or has ever been, a member in another qualified defined benefit plan (without regard to whether the plan has been terminated) maintained by the employer or a predecessor employer, the sum of the member's annual benefits from all such plans may not exceed the maximum permissible benefit.

D. The application of the provisions of this Chapter shall not cause the maximum permissible benefit for any member to be less than the member's accrued benefit under all the defined benefit plans of the employer or a predecessor employer as of the end of the last limitation year beginning before July 1, 2007 under provisions of the plans that were both adopted and in effect before April 5, 2007. The preceding sentence applies only if the provisions of such defined benefit plans that were both adopted and in effect before April 5, 2007 satisfied the applicable requirements of statutory provisions, regulations, and other published guidance relating to section 415 of the *Internal Revenue Code* in effect as of the end of the last limitation year beginning before July 1, 2007, as described in section 1.415(a)-1(g)(4) of the income tax regulations.

E. The limitations of this Chapter shall be determined and applied taking into account the rules in Subsection G.

###### **F. Definitions**

*Annual Benefit*—a benefit that is payable annually in the form of a straight life annuity. Except as provided below, where a benefit is payable in a form other than a straight life annuity, the benefit shall be adjusted to an actuarially equivalent straight life annuity that begins at the same time as such other form of benefit and is payable on the first day of each month, before applying the limitations of this article. For a member who has or will have distributions commencing at more than one annuity starting date, the *annual benefit* shall be determined as of each such annuity starting date (and shall satisfy the limitations of this Chapter as of each such date), actuarially adjusting for past and future distributions of benefits commencing at the other annuity starting dates. For this purpose, the determination of whether a new starting date has occurred shall be made without regard to section 1.401(a)-20, Q and A 10(d), and with regard to section 1.415(b)1(b)(1)(iii)(B) and (C) of the income tax regulations.

a. No actuarial adjustment to the benefit shall be made for:

i. survivor benefits payable to a surviving spouse under a qualified joint and survivor annuity to the extent such benefits would not be payable if the member's benefit were paid in another form;

ii. benefits that are not directly related to retirement benefits (such as a disability benefit, preretirement incidental death benefits, and postretirement medical benefits); or

iii. the inclusion in the form of benefit of an automatic benefit increase feature, provided the form of benefit is not subject to section 417(e)(3) of the *Internal Revenue Code* and would otherwise satisfy the limitations of this Chapter, and the plan provides that the amount payable under the form of benefit in any limitation year shall not exceed the limits of this Chapter applicable at the annuity starting date, as increased in subsequent years pursuant to section 415(d). For this purpose, an automatic benefit increase feature is included in a form of benefit if the form of benefit provides for automatic, periodic increases to the benefits paid in that form. The determination of the *annual benefit* shall take into account social security supplements described in section 411(a)(9) of the *Internal Revenue Code* and benefits transferred from another defined benefit plan, other than transfers of distributable benefits pursuant to section 1.411(d)-4, Q and A-3(c), of the income tax regulations, but shall disregard benefits attributable to employee contributions or rollover contributions. Effective for distributions in plan years beginning after December 31, 2003, the determination of actuarial equivalence of forms of benefit other than a straight life annuity shall be made in accordance with §201.F.1.b or F.1.c.

###### **b. Benefit Forms Not Subject to Section 417(e)(3)**

i. The straight life annuity that is actuarially equivalent to the member's form of benefit shall be determined under this Subparagraph b, if the form of the member's benefit is either:

(a). a non-decreasing annuity (other than a straight life annuity) payable for a period of not less than the life of the member (or, in the case of a qualified pre-retirement survivor annuity, the life of the surviving spouse); or

(b). an annuity that decreases during the life of the member merely because of:

(i). the death of the survivor annuitant (but only if the reduction is not below 50 percent of the benefit payable before the death of the survivor annuitant); or

(ii). the cessation or reduction of Social Security supplements or qualified disability payments [as defined in section 401(a)(11)].

ii. Limitation Years Beginning before July 1, 2007. For limitation years beginning before July 1, 2007, the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit computed using whichever of the following produces the greater annual amount:

(a). the interest rate and the mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form; and

(b). a 5 percent interest rate assumption and the applicable mortality table for that annuity starting date.

iii. Limitation Years Beginning on or after July 1, 2007. For limitation years beginning on or after July 1, 2007, the actuarially equivalent straight life annuity is equal to the greater of:

(a). the annual amount of the straight life annuity (if any) payable to the member under the plan commencing at the same annuity starting date as the member's form of benefit; and

(b). the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a 5 percent interest rate assumption and the applicable mortality table for that annuity starting date.

c. Benefit Forms Subject to Section 417(e)(3). The straight life annuity that is actuarially equivalent to the member's form of benefit shall be determined under this Paragraph if the form of the member's benefit is other than a benefit form described in §201.F.1.b. In this case, the actuarially equivalent straight life annuity shall be determined as follows.

i. Annuity Starting Date in Plan Years Beginning After 2005. If the annuity starting date of the member's form of benefit is in a plan year beginning after 2005, the actuarially equivalent straight life annuity is equal to the greatest of:

(a). the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using the interest rate and the mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form; and

(b). the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a 5.5 percent interest rate assumption and the applicable mortality table; and

(c). the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using the applicable interest rate and the applicable mortality table, divided by 1.05.

ii. Annuity Starting Date in Plan Years Beginning in 2004 or 2005. If the annuity starting date of the member's form of benefit is in a plan year beginning in 2004 or 2005, the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using whichever of the following produces the greater annual amount:

(a). the interest rate and the mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form; and

(b). a 5 percent interest rate assumption and the applicable mortality table. If the annuity starting date of the member's benefit is on or after the first day of the first plan year beginning in 2004 and before December 31, 2004, the application of this §201.F.1.c. shall not cause the amount

payable under the member's form of benefit to be less than the benefit calculated under the plan, taking into account the limitations of this Chapter, except that the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using whichever of the following produces the greatest annual amount:

(i). the interest rate and the mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form;

(ii). the applicable interest rate and the applicable mortality table; and

(iii). the applicable interest rate (as in effect on the last day of the last plan year beginning before January 1, 2004, under provisions of the plan then adopted and in effect) and the applicable mortality table.

*Applicable Interest Rate*—the rate of interest on 30 year Treasury securities (or any subsequent rate used under section 417(e) of the *Internal Revenue Code*) as specified by the Internal Revenue Service for the lookback month. The lookback month applicable to the stability period is the second calendar month preceding the first day of the stability period. The stability period is the plan year that contains the annuity starting date for the distribution and for which the *applicable interest rate* remains constant.

*Applicable Mortality Table*—the *applicable mortality table* within the meaning of section 417(e)(3)(B) of the *Internal Revenue Code*.

#### *415 Safe-Harbor Compensation*—

a. *compensation*—wages, salaries, and fees for professional services and other amounts received (without regard to whether or not an amount is paid in cash) for personal services actually rendered in the course of employment with the employer maintaining the plan to the extent that the amounts are includible in gross income (including, but not limited to, commissions paid salespersons, *compensation* for services on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe benefits, and reimbursements, or other expense allowances under a nonaccountable plan (as described in section 1.62-2(c) of the income tax regulations), and excluding the following:

i. employer contributions [other than elective contributions described in section 402(e)(3), section 408(k)(6), section 408(p)(2)(A)(i), or section 457(b)] to a plan of deferred *compensation* (including a simplified employee pension described in section 408(k) or a simple retirement account described in section 408(p), and whether or not qualified) to the extent such contributions are not includible in the member's gross income for the taxable year in which contributed, and any distributions (whether or not includible in gross income when distributed) from a plan of deferred *compensation* (whether or not qualified);

ii. amounts realized from the exercise of a nonstatutory stock option (that is, an option other than a statutory stock option as defined in section 1.421-1(b) of the income tax regulations), or when restricted stock (or property) held by the member either becomes freely transferable or is no longer subject to a substantial risk of forfeiture;



iii. amounts realized from the sale, exchange or other disposition of stock acquired under a statutory stock option;

iv. other amounts that receive special tax benefits, such as premiums for group-term life insurance (but only to the extent that the premiums are not includible in the gross income of the member and are not salary reduction amounts that are described in section 125);

v. other items of remuneration that are similar to any of the items listed in Clauses i-iv above;

b. for any self-employed individual:

i. *compensation*—earned income;

c. except as provided herein, for limitation years beginning after December 31, 1991, *compensation* for a limitation year is the *compensation* actually paid or made available during such limitation year;

d. for limitation years beginning on or after July 1, 2007, *compensation* for a limitation year shall also include *compensation* paid by the later of 2 1/2 months after a member's severance from employment with the employer maintaining the plan or the end of the limitation year that includes the date of the member's severance from employment with the employer maintaining the plan, if:

i. the payment is regular *compensation* for services during the member's regular working hours, or *compensation* for services outside the employee's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments, and, absent a severance from employment, the payments would have been paid to the member while the member continued in employment with the employer;

ii. the payment is for unused accrued bona fide sick, vacation or other leave that the member would have been able to use if employment had continued; or

iii. the payment is received by the member pursuant to a nonqualified unfunded deferred *compensation* plan and would have been paid at the same time if employment had continued, but only to the extent includible in gross income;

e. any payments not described above shall not be considered *compensation* if paid after severance from employment, even if they are paid by the later of 2 1/2 months after the date of severance from employment or the end of the limitation year that includes the date of severance from employment. Back pay, within the meaning of section 1.415(c)-2(g)(8), shall be treated as *compensation* for the limitation year to which the back pay relates to the extent the back pay represents wages and *compensation* that would otherwise be included under this definition;

f. for limitation years beginning after December 31, 1997, *compensation* paid or made available during such limitation year shall include amounts that would otherwise be included in *compensation* but for an election under sections 125(a), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b);

g. for limitation years beginning after December 31, 2000, *compensation* shall also include any elective amounts that are not includible in the gross income of the member by reason of section 132(f)(4).

**Defined Benefit Compensation Limitation**—100 percent of a member's high three-year average compensation, payable in the form of a straight life annuity. In the case of a member who is rehired after a severance from employment,

the *defined benefit compensation limitation* is the greater of 100 percent of the member's high three-year average compensation, as determined prior to the severance from employment or 100 percent of the member's high three-year average compensation, as determined after the severance from employment under §201.G.

**Defined Benefit Dollar Limitation**—effective for limitation years ending after December 31, 2001, the *defined benefit dollar limitation* is \$160,000, automatically adjusted under section 415(d) of the *Internal Revenue Code*, effective January 1 of each year, as published in the *Internal Revenue Bulletin*, and payable in the form of a straight life annuity. The new limitation shall apply to limitation years ending with or within the calendar year of the date of the adjustment, but a member's benefits shall not reflect the adjusted limit prior to January 1 of that calendar year.

**Employer** (for purposes of this Chapter)—the *employer* that adopts this plan, and all members of a controlled group of corporations, as defined in section 414(b) of the *Internal Revenue Code*, as modified by section 415(h), all commonly controlled trades or businesses [as defined in section 414(c), as modified, except in the case of a brother-sister group of trades or businesses under common control, by section 415(h)], or affiliated service groups [as defined in section 414(m)] of which the adopting *employer* is a part, and any other entity required to be aggregated with the *employer* pursuant to section 414(o) of the *Internal Revenue Code*.

**Formerly Affiliated Plan of the Employer**—a plan that, immediately prior to the cessation of affiliation, was actually maintained by the employer and, immediately after the cessation of affiliation is not actually maintained by the employer. For this purpose:

a. *cessation of affiliation*—the event that causes an entity to no longer be considered the employer, such as the sale of a member controlled group of corporations, as defined in section 414(b) of the *Internal Revenue Code*, as modified by section 415(h), to an unrelated corporation, or that causes a plan to not actually be maintained by the employer, such as transfer of plan sponsorship outside a controlled group.

**High Three-Year Average Compensation**—the average compensation for the three consecutive years of service (or, if the member has less than three consecutive years of service, the member's longest consecutive period of service, including fractions of years, but not less than one year) with the employer that produces the highest average. In the case of a member who is rehired by the employer after a severance from employment, the member's *high three-year average compensation* shall be calculated by excluding all years for which the member performs no services for and receives no compensation from the employer (the break period) and by treating the years immediately preceding and following the break period as consecutive. A member's compensation for a year of service shall not include compensation in excess of the limitation under section 401(a)(17) of the *Internal Revenue Code* that is in effect for the calendar year in which such year of service begins.

**Limitation Year**—a fiscal year, from July 1 to June 31. All qualified plans maintained by the employer must use the same *limitation year*. If the *limitation year* is amended to a different 12-consecutive month period, the new *limitation*

year must begin on a date within the *limitation year* in which the amendment is made.

**Maximum Permissible Benefit**—the lesser of the defined benefit dollar limitation or the defined benefit compensation limitation (both adjusted where required, as provided below).

a. Adjustment for Less than 10 Years of Participation or Service. If the member has less than 10 years of participation in the plan, the defined benefit dollar limitation shall be multiplied by a fraction:

i. the numerator of which is the number of years (or part thereof, but not less than one year) of participation in the plan; and

ii. the denominator of which is 10. In the case of a member who has less than 10 years of service with the employer, the defined benefit compensation limitation shall be multiplied by a fraction:

(a). the numerator of which is the number of years (or part thereof, but not less than one year) of Service with the employer; and

(b). the denominator of which is 10.

b. Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement before Age 62 or after Age 65. Effective for benefits commencing in limitation years ending after December 31, 2001, the defined benefit dollar limitation shall be adjusted if the annuity starting date of the member's benefit is before age 62 or after age 65. If the annuity starting date is before age 62, the defined benefit dollar limitation shall be adjusted under Clause b.i of this Paragraph, as modified by Clause b.iii of this Paragraph. If the annuity starting date is after age 65, the defined benefit dollar limitation shall be adjusted under Clause b.ii of this Paragraph, as modified by Clause b.iii of this Paragraph.

i. Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement before Age 62

(a). Limitation Years Beginning before July 1, 2007. If the annuity starting date for the member's benefit is prior to age 62 and occurs in a limitation year beginning before July 1, 2007, the defined benefit dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the defined benefit dollar limitation (adjusted under §201.F.11.a. for years of participation less than 10, if required) with actuarial equivalence computed using whichever of the following produces the smaller annual amount:

(i). the interest rate and the mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form; or

(ii). a 5 percent interest rate assumption and the applicable mortality table.

(b). Limitation Years Beginning on or After July 1, 2007

(i). Plan Does Not Have Immediately Commencing Straight Life Annuity Payable at Both Age 62 and the Age of Benefit Commencement. If the annuity starting date for the member's benefit is prior to age 62 and occurs in a limitation year beginning on or after July 1, 2007, and the plan does not have an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement, the defined benefit dollar

limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the defined benefit dollar limitation (adjusted under Subparagraph a of this Paragraph for years of participation less than 10, if required) with actuarial equivalence computed using a 5 percent interest rate assumption and the applicable mortality table for the annuity starting date (and expressing the member's age based on completed calendar months as of the annuity starting date).

(ii). Plan Has Immediately Commencing Straight Life Annuity Payable at Both Age 62 and the Age of Benefit Commencement. If the annuity starting date for the member's benefit is prior to age 62 and occurs in a limitation year beginning on or after July 1, 2007, and the plan has an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement, the defined benefit dollar limitation for the member's annuity starting date is the lesser of the limitation determined under Division b.i.(b).(i) of this Paragraph and the defined benefit dollar limitation (adjusted under Subparagraph a of this Paragraph for years of participation less than 10, if required) multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the plan at the member's annuity starting date to the annual amount of the immediately commencing straight life annuity under the plan at age 62, both determined without applying the limitations of this article.

ii. Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement after Age 65

(a). Limitation Years Beginning Before July 1, 2007. If the annuity starting date for the member's benefit is after age 65 and occurs in a limitation year beginning before July 1, 2007, the defined benefit dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the defined benefit dollar limitation (adjusted under Subparagraph a of this Paragraph for years of participation less than 10, if required) with actuarial equivalence computed using whichever of the following produces the smaller annual amount:

(i). the interest rate and the mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form; or

(ii). a 5 percent interest rate assumption and the applicable mortality table.

(b). Limitation Years Beginning Before July 1, 2007

(i). Plan Does Not Have Immediately Commencing Straight Life Annuity Payable at Both Age 65 and the Age of Benefit Commencement. If the annuity starting date for the member's benefit is after age 65 and occurs in a limitation year beginning on or after July 1, 2007, and the plan does not have an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement, the defined benefit dollar limitation at the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the defined benefit dollar

limitation (adjusted under Subparagraph a of this Paragraph for years of participation less than 10, if required), with actuarial equivalence computed using a 5 percent interest rate assumption and the applicable mortality table for that annuity starting date (and expressing the member's age based on completed calendar months as of the annuity starting date).

(ii) Plan Has Immediately Commencing Straight Life Annuity Payable at Both Age 65 and the Age of Benefit Commencement. If the annuity starting date for the member's benefit is after age 65 and occurs in a limitation year beginning on or after July 1, 2007, and the plan has an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement, the defined benefit dollar limitation at the member's annuity starting date is the lesser of the limitation determined under §201.F.11.b.ii.(b).(i) and the defined benefit dollar limitation (adjusted under §201.F.11.a for years of participation less than 10, if required) multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the plan at the member's annuity starting date to the annual amount of the adjusted immediately commencing straight life annuity under the plan at age 65, both determined without applying the limitations of this article. For this purpose, the adjusted immediately commencing straight life annuity under the plan at the member's annuity starting date is the annual amount of such annuity payable to the member, computed disregarding the member's accruals after age 65 but including actuarial adjustments even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing straight life annuity under the plan at age 65 is the annual amount of such annuity that would be payable under the plan to a hypothetical member who is age 65 and has the same accrued benefit as the member.

iii. Notwithstanding the other requirements of this Subparagraph F.10.b., no adjustment shall be made to the defined benefit dollar limitation to reflect the probability of a member's death between the annuity starting date and age 62, or between age 65 and the annuity starting date, as applicable, if benefits are not forfeited upon the death of the member prior to the annuity starting date. To the extent benefits are forfeited upon death before the annuity starting date, such an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the member's death if the plan does not charge members for providing a qualified preretirement survivor annuity, as defined in section 417(c) of the *Internal Revenue Code*, upon the member's death.

c. Minimum Benefit Permitted. Notwithstanding anything else in this Section to the contrary, the benefit otherwise accrued or payable to a member under this plan shall be deemed not to exceed the *maximum permissible benefit* if:

i. the retirement benefits payable for a limitation year under any form of benefit with respect to such member under this plan and under all other defined benefit plans (without regard to whether a plan has been terminated) ever maintained by the employer do not exceed \$10,000 multiplied by a fraction:

(a). the numerator of which is the member's number of years (or part thereof, but not less than 1 year) of service (not to exceed 10) with the employer; and

(b). the denominator of which is 10; and

ii. the employer (or a predecessor employer) has not at any time maintained a defined contribution plan in which the member participated (for this purpose, mandatory employee contributions under a defined benefit plan, individual medical accounts under section 401(h), and accounts for postretirement medical benefits established under section 419A(d)(1) are not considered a separate defined contribution plan).

*Predecessor Employer*—if the employer maintains a plan that provides a benefit which the member accrued while performing services for a former employer, the former employer is a *predecessor employer* with respect to the member in the plan. A former entity that antedates the employer is also a *predecessor employer* with respect to a member if, under the facts and circumstances, the employer constitutes a continuation of all or a portion of the trade or business of the former entity.

*Severance from Employment*—an employee has a *severance from employment* when the employee ceases to be an employee of the employer maintaining the plan. An employee does not have a *severance from employment* if, in connection with a change of employment, the employee's new employer maintains the plan with respect to the employee.

*Year of Participation*—the member shall be credited with a *year of participation* (computed to fractional parts of a year) for each accrual computation period for which the following conditions are met:

a. the member is credited with at least the number of hours of service (or period of service if the elapsed time method is used) for benefit accrual purposes, required under the terms of the plan in order to accrue a benefit for the accrual computation period; and

b. the member is included as a member under the eligibility provisions of the plan for at least one day of the accrual computation period. If these two conditions are met, the portion of a *year of participation* credited to the member shall equal the amount of benefit accrual service credited to the member for such accrual computation period. A member who is permanently and totally disabled within the meaning of section 415(c)(3)(C)(i) of the *Internal Revenue Code* for an accrual computation period shall receive a *year of participation* with respect to that period. In addition, for a member to receive a *year of participation* (or part thereof) for an accrual computation period, the plan must be established no later than the last day of such accrual computation period. In no event shall more than one *year of participation* be credited for any 12-month period.

*Year of Service*—for purposes of Subsection G of this Section, the member shall be credited with a *year of service* (computed to fractional parts of a year) for each accrual computation period for which the member is credited with at least the number of hours of service (or period of service if the elapsed time method is used) for benefit accrual purposes, required under the terms of the plan in order to accrue a benefit for the accrual computation period, taking

into account only service with the employer or a predecessor employer.

#### G. Other Rules

1. **Benefits under Terminated Plans.** If a defined benefit plan maintained by the employer has terminated with sufficient assets for the payment of benefit liabilities of all plan members and a member in the plan has not yet commenced benefits under the plan, the benefits provided pursuant to the annuities purchased to provide the member's benefits under the terminated plan at each possible annuity starting date shall be taken into account in applying the limitations of this article. If there are not sufficient assets for the payment of all members' benefit liabilities, the benefits taken into account shall be the benefits that are actually provided to the member under the terminated plan.

2. **Benefits Transferred from the Plan.** If a member's benefits under a defined benefit plan maintained by the employer are transferred to another defined benefit plan maintained by the employer and the transfer is not a transfer of distributable benefits pursuant section 1.411(d)-4, Q and A-3(c), of the income tax regulations, the transferred benefits are not treated as being provided under the transferor plan (but are taken into account as benefits provided under the transferee plan). If a member's benefits under a defined benefit plan maintained by the employer are transferred to another defined benefit plan that is not maintained by the employer and the transfer is not a transfer of distributable benefits pursuant section 1.411(d)-4, Q and A-3(c), of the income tax regulations, the transferred benefits are treated by the employer's plan as if such benefits were provided under annuities purchased to provide benefits under a plan maintained by the employer that terminated immediately prior to the transfer with sufficient assets to pay all members' benefit liabilities under the plan. If a member's benefits under a defined benefit plan maintained by the employer are transferred to another defined benefit plan in a transfer of distributable benefits pursuant section 1.411(d)-4, Q and A-3(c), of the income tax regulations, the amount transferred is treated as a benefit paid from the transferor plan.

3. **Formerly Affiliated Plans of the Employer.** A formerly affiliated plan of an employer shall be treated as a plan maintained by the employer, but the formerly affiliated plan shall be treated as if it had terminated immediately prior to the cessation of affiliation with sufficient assets to pay members' benefit liabilities under the plan and had purchased annuities to provide benefits.

4. **Plans of a Predecessor Employer.** If the employer maintains a defined benefit plan that provides benefits accrued by a member while performing services for a predecessor employer, the member's benefits under a plan maintained by the predecessor employer shall be treated as provided under a plan maintained by the employer. However, for this purpose, the plan of the predecessor employer shall be treated as if it had terminated immediately prior to the event giving rise to the predecessor employer relationship with sufficient assets to pay members' benefit liabilities under the plan, and had purchased annuities to provide benefits; the employer and the predecessor employer shall be treated as if they were a single employer immediately prior to such event and as unrelated employers immediately after the event; and if the event giving rise to

the predecessor relationship is a benefit transfer, the transferred benefits shall be excluded in determining the benefits provided under the plan of the predecessor employer.

5. **Special Rules.** The limitations of this Chapter shall be determined and applied taking into account the rules in section 1.415(f)-1(d), (e) and (h) of the income tax regulations.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 11:1302.1.

**HISTORICAL NOTE:** Promulgated by the Department of the Treasury, Board of Trustees of the Louisiana State Police Retirement System, LR 39:1286 (May 2013).

#### **§202. Required Minimum Distributions**

A.1. Unless the member has elected otherwise on or before December 31, 1983, the entire benefit of a member shall be distributed over a period not longer than the longest of the following periods:

- a. the member's life;
- b. if the member is married, the life of the member's designated beneficiary;
- c. the member's life expectancy;
- d. the joint life and last survivor life expectancy of the member and his designated beneficiary.

2. If the member is married and his spouse survives him, the designated beneficiary for at least a qualified joint and survivor annuity and 50 percent of his deferred retirement option plan account shall be his spouse, unless such spouse has consented to the contrary in writing before a notary public. For purposes of this Paragraph:

a. *spouse*—that person who is married to the member under a legal regime of community of acquets and gains on his effective date of retirement or effective date of participation in the deferred retirement option plan, whichever is earlier.

3. If the member was a member on or before December 31, 1983, he shall be deemed to have made the election referred to herein. If a member dies after the commencement of his benefits, the remaining portion of his benefit shall be distributed at least as rapidly as before his death. Payment of survivor benefits shall not be considered to violate this provision.

B.1. If the member dies before his benefit has commenced the remainder of such interest shall be distributed to the member's beneficiary within five years after the date of such member's death.

2. Paragraph 1 of this Subsection shall not apply to any portion of a member's benefit which is payable to or for the benefit of a designated beneficiary or beneficiaries, over the life of or over the life expectancy of such beneficiary, so long as such distributions begin not later than one year after the date of the member's death, or, in the case of the member's surviving spouse, the date the member would have attained the age of 70 years and 6 months. If the designated beneficiary is a child of the member, for purposes of satisfying the requirement of Paragraph 1 of this Subsection, any amount paid to such child shall be treated as if paid to the member's surviving spouse if such amount would become payable to such surviving spouse, if alive, upon the child's reaching age eighteen or, if later, upon the child's completing a designated event. For purposes of the preceding sentence, a designated event shall be the later of the date the child is no longer disabled, or the date the child ceases to be a full-time student or attains age 23, if earlier.

3. Paragraph 1 of this Subsection shall not apply if the distribution of the member's interest has commenced and is for a term certain over a period permitted in Subsection A of this Section.

4. Paragraph 1 of this Subsection shall not apply if the member has elected otherwise on or before December 31, 1983, or such later date to which such election period shall be subject under *Internal Revenue Code* section 401(a).

C. As to any benefit payable by the retirement system which is not optional as of December 31, 1983, the member shall be considered to have made the election referred to in Subsections A and B of this Section, if he was a member on or before such time.

D. If by operation of law or by action of the board of trustees, a survivor benefit is payable to a specified person or persons, the member shall be considered to have designated such person as an alternate beneficiary hereunder. If there is more than one such person, then the youngest disabled child shall be considered to have been so designated, or, if none, then the youngest person entitled to receive a survivor benefit shall be considered to have been so designated. The designation of a designated beneficiary hereunder shall not prevent payment to multiple beneficiaries but shall only establish the permitted period of payments.

E. Payment in accordance with the survivor benefit provisions of R.S. 11:1316-1323.1 shall be deemed not to violate Subsections A and B of this Section.

F. This Section shall be effective for members of the system who complete any service under the system on or after July 1, 1992, with employers contributing to the system.

G. Distributions from the system shall be made in accordance with the requirements set forth in *Internal Revenue Code* section 401(a)(9), including the minimum distribution incidental benefit rules applicable thereunder.

H.1.A member's benefits shall commence to be paid on or before the required beginning date.

2. The required beginning date shall be April 1 of the calendar year following the later of the calendar year in which the member attains 70 1/2 years of age, or the calendar year in which the employee retires. Effective for plan years beginning on or after January 1, 1998, the required beginning date shall be April 1 of the year following the later of the year the member attained 70 1/2 or the year he terminated employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1302.1.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Louisiana State Police Retirement System, LR 39:1292 (May 2013).

### **§203. Direct Rollovers**

A. Notwithstanding any other provision of law to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the board of trustees, to have any portion of an "eligible rollover distribution," as specified by the distributee, paid directly to an "eligible retirement plan," as those terms are defined below.

B. The following definitions shall apply.

*Direct Rollover*—a payment by the system to the eligible retirement plan specified by the distributee.

*Distributee*—shall include:

- a. a member or former member;

- b. the member's or former member's surviving spouse, or the member's or former member's former spouse with whom a benefit or a return of employee contributions is to be divided pursuant to R.S. 11:291(B), with reference to an interest of the member or former spouse;

- c. the member's or former member's non-spouse beneficiary, provided the specified distribution is to an eligible retirement plan as defined in Subparagraphs a and b of the definition of *eligible retirement plan* in this Section.

*Eligible Retirement Plan*—any of the following:

- a. an individual retirement account described in section 408(a) of the *Internal Revenue Code*;

- b. an individual retirement annuity described in section 408(b) of the *Internal Revenue Code*;

- c. an annuity plan described in section 403(a) of the *Internal Revenue Code*;

- d. a qualified trust as described in section 401(a) of the *Internal Revenue Code*, provided that such trust accepts the member's eligible rollover distribution;

- e. an eligible deferred compensation plan described in section 457(b) of the *Internal Revenue Code* that is maintained by an eligible governmental employer, provided the plan contains provisions to account separately for amounts transferred into such plan; and

- f. an annuity contract described in section 403(b) of the *Internal Revenue Code*.

*Eligible Rollover Distribution*—any distribution of all or any portion of the balance to the credit of the distributee, except that an *eligible rollover distribution* does not include:

- a. any distribution that is one of a series of substantially equal periodic payments, not less frequently than annually, made for the life or life expectancy of the member, or the joint lives or joint life expectancies of the member and the member's designated beneficiary, or for a specified period of ten years or more;

- b. any distribution to the extent that such distribution is required under section 401(a)(9) of the United States *Internal Revenue Code*; and

- c. any distribution which is made upon hardship of the employee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1302.1.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Louisiana State Police Retirement System, LR 39:1292 (May 2013).

### **§204. Annual Compensation Limitation**

A. Unless otherwise provided in this Chapter, the accrued benefit of each section 401(a)(17) employee as that term is defined below shall be the greater of the following:

1. the employee's accrued benefit determined with respect to the benefit formula applicable for the plan year beginning on or after January 1, 1996, as applied to the employee's total years of service taken into account for purposes of benefit accruals;

2. the sum of:

- a. the employee's accrued benefit as of the last day of the last plan year beginning before January 1, 1996, frozen in accordance with the provisions of section 1.401(a)(4)-1 through 1.401(a)(4)-13 of the *Code of Federal Regulations*;

- b. the employee's accrued benefit determined under the benefit formula applicable for the plan year beginning on or after January 1, 1996, as applied to the employee's years

of service credited to the employee for plan years beginning on or after January 1, 1996, for purposes of benefit accruals.

B. A *section 401(a)(17) employee* shall mean any employee whose current accrued benefit, as of a date on or after the first day of the first plan year beginning on or after January 1, 1996, is based on compensation for a year beginning prior to the first day of the first plan year beginning on or after January 1, 1996, that exceeded \$150,000.

C. If an employee is not a section 401(a)(17) employee, his accrued benefit in this system shall not be based upon compensation in excess of the annual limit of section 401(a)(17) of the United States *Internal Revenue Code* as amended and revised.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1302.1.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Louisiana State Police Retirement System, LR 39:1293 (May 2013).

#### **§205. General**

A. The assets of this system's pension plan shall be held for the exclusive benefit of the employees who are or become participating members of the system and their survivors and beneficiaries, and of retirees and their survivors and beneficiaries. No part of the corpus, the system's pension plan assets held in trust, or income of the system's pension plan shall be used for or diverted to

purposes other than the exclusive benefit of such members and retirees, or their survivors or beneficiaries, whether by operation or natural termination of the system's pension plan, by power of revocation or amendment, by the happening of a contingency, by collateral assignment, or by any other means.

B. The retirement benefit earned by a member shall be fully vested and nonforfeitable no later than the date he becomes eligible to retire. Benefits of affected members shall also become vested and nonforfeitable to the extent funded, upon the termination or partial termination of the system's pension plan or the complete discontinuance of contributions thereto.

C. Forfeitures resulting from a termination of employment or a withdrawal of a member's own contributions may not be used to increase benefits to remaining members. This shall not preclude an increase in benefits by amendment to the benefit formula made possible by favorable investment results or for any other reason.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1302.1.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Louisiana State Police Retirement System, LR 39:1294 (May 2013).

Irwin L. Felps, Jr.  
Executive Director

1305#003

# Notices of Intent

## NOTICE OF INTENT

### Department of Children and Family Services Economic Stability

#### Child Welfare Emergency Assistance Services Program (LAC 67:III.5597)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953(A), the Department of Children and Family Services (DCFS) proposes to amend LAC 67:III, Subpart 15 Temporary Assistance for Needy Families (TANF) Initiatives, Chapter 55 TANF Initiatives, Section 5597 Child Welfare Emergency Assistance Services Program.

Pursuant to Louisiana's Temporary Assistance for Needy Families (TANF) Block Grant, adjustments to Section 5597 Child Welfare Emergency Assistance Services Program are necessary to clarify the program's service period and financial eligibility criteria, which must mirror eligibility rules in effect as of August 21, 1996 under the Louisiana Aid to Families with Dependent Children (AFDC) Emergency Assistance Program.

This proposed Rule was made effective by an Emergency Rule dated and effective March 22, 2013.

#### Title 67

#### SOCIAL SERVICES

#### Part III. Economic Stability

#### Subpart 15. Temporary Assistance for Needy Families (TANF) Initiatives

#### Chapter 55. TANF Initiatives

#### §5597. Child Welfare Emergency Assistance Services Program

A. The Child Welfare Emergency Assistance Services Program will provide services to children who are removed from their parents by the courts and are in foster care. These services include case management and planning as performed by DCFS' staff. The types of assistance that meet the emergency situation may include shelter care, foster family care or emergency shelter care including food, clothing and supervision.

B. TANF eligibility is limited within any twelve month period to a single episode of need with a maximum duration of 12 months. TANF eligibility is also limited to families with income less than twice the state median income (SMI).

C. These services are TANF-eligible based on inclusion in the state's approved AFDC Emergency Assistance Program that was in effect as of August 21, 1996.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; P.L. 104-193, R.S. 46:231 and R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 39:67 (January 2013), amended LR 39:

#### Family Impact Statement

1. What effect will this Rule have on the stability of the family? This Rule minimally impacts the family's financial resources and could affect the family's stability.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? This Rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This Rule may have a negative effect on the functioning of the family.

4. What effect will this have on family earnings and family budget? This Rule will have no effect on family earnings. This Rule may result in additional expenses in the family budget.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will ensure the children's basic needs are met during the emergency situation.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, these functions are department functions.

#### Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

#### Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The department, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### Public Comments

All interested persons may submit written comments through June 27, 2013, to Sammy Guillory, Deputy Assistant Secretary of Programs, Department of Children and Family Services, P.O. Box 94065, Baton Rouge, LA 70804-9065.

#### Public Hearing

A public hearing on the proposed Rule will be held on June 27, 2013 at the Department of Children and Family Services, Iberville Building, 627 N. Fourth Street, Seminar Room 1-127, Baton Rouge, LA beginning at 9:00 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call Area Code 225-342-4120 (Voice and TDD).

Suzy Sonnier  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Child Welfare Emergency  
Assistance Services Program**

**NOTICE OF INTENT**

**Department of Children and Family Services  
Economic Stability**

**Recovery of Overpayments and Over-Issuances  
(LAC 67:III.1503, 2005, 5106, and 5383)**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

This rule proposes to continue the provisions of the March 22, 2013 emergency rule that amended Louisiana Administrative Code (LAC), Title 67, Part III, Subpart 15 Temporary Assistance for Needy Families (TANF) Initiatives, Chapter 55 TANF Initiatives, Section 5597 Child Welfare Emergency Assistance Services Program. The proposed rule stipulates that the secretary of the Department of Children and Family Services (DCFS) has authority to amend Section 5597 Child Welfare Emergency Assistance Services Program that increases program's service period from the first 4 months in a 12-month period to any 12 months within that same period. In addition, the proposed rule limits financial eligibility to families with less than twice the State Median Income (SMI). This proposed rule mirrors eligibility rules in effect as of August 21, 1996 under the Louisiana Aid to Families with Dependent Children (AFDC) Emergency Assistance Program. With this change, beginning September 2012, program services are eligible for TANF funding. Prior to September 2012, the program was only funded with State General Fund and Social Services Block Grant funding. The change in funding source mitigates the reduction of State General Fund as part of mid-year budget reductions while maintaining service levels in foster care.

The department anticipates that implementation of this proposed rule will result in an estimated increase of TANF funding for program services in the amount of \$5,690,000 in FY 12-13, \$6,824,000 in FY 13-14 and FY 14-15. However, the increased of TANF funding is currently included in the agency budget as other TANF funded programs was reduced or eliminated over the course in FY 13.

The cost associated with this proposed rule is the cost of publishing rulemaking. It is anticipated that \$984 (\$492 SGF and \$492 FED) will be expended in FY 12-13 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

Implementation of this proposed rule will have no effect on revenue collections of State or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

Services received by children in the Child Welfare Emergency Assistance Services program will remain the same. This proposed rule simply amends the service period and financial eligibility criteria.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

This proposed rule will not have an impact on competition and employment for low-income families.

Sammy Guillory  
Deputy Assistant Secretary  
1305#066

John D. Carpenter  
Legislative Fiscal Officer  
Legislative Fiscal Office

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953(A), the Department of Children and Family Services (DCFS) proposes to amend LAC 67:III, Subpart 2, Family Independence Temporary Assistance Program (FITAP), Chapter 15, Subchapter B, Section 1503, Subpart 3, Supplemental Nutritional Assistance Program (SNAP), Chapter 19, Subchapter P, Section 2005, Subpart 12, Child Care Assistance Program (CCAP), Chapter 51, Subchapter A, Section 5106, and Subpart 13, Kinship Care Subsidy Program (KCSP), Chapter 53, Subchapter C, Section 5383. Amendment is pursuant to the authority granted to the department by Louisiana's Temporary Assistance for Needy Families (TANF) Block Grant, Food and Nutrition Act of 2008, in accordance with federal regulations for the Supplemental Nutrition Assistance Program (SNAP) in 7 CFR 273.18, and the Child Care and Development Fund (CCDF).

Section 2005, SNAP Claims Against Households, is being amended to change the recovery threshold. The department opts to rely on the standard recovery threshold and cost effectiveness policy established by the Food and Nutrition Service (FNS) in 7 CFR 273.18(e)(2)(ii) when determining whether pursuing a SNAP claim is cost effective.

Section 1503, FITAP Recovery of Overpayments, Section 5106, CCAP Ineligible Payments, and Section 5383, KCSP Recovery of Overpayments, are being amended to change the recovery thresholds to mirror SNAP guidelines for determining whether pursuing a FITAP, CCAP, or KCSP claim is cost effective.

The department considers these amendments necessary to adopt FNS thresholds for recovery of claims against SNAP households in accordance with 7 CFR 273.18, and to change the recovery thresholds for FITAP, KCSP, and CCAP to mirror the SNAP recovery threshold. This will align recovery thresholds in FITAP, SNAP, CCAP, and KCSP, thus making it easier for staff to establish recovery claims by following consistent recovery policy and procedures.

**Title 67**

**SOCIAL SERVICES**

**Part III. Economic Stability**

**Subpart 2. Family Independence Temporary Assistance  
Program**

**Chapter 15. General Program Administration  
Subchapter B. Recovery**

**§1503. Recovery of Overpayments**

A. All FITAP overpayments shall be subject to collection either by recoupment or recovery with the exception of inadvertent household error claims and administrative error claims of \$125 or less for non participating households.



B. Action will be taken to recover all claims for participating households and claims which are determined to be the result of intentional program violation.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:1030 (December 1984), amended by the Department of Social Services, Office of Family Support, LR 24:353 (February 1998), LR 27:428 (March 2001), LR 34:2678 (December 2008), amended by the Department of Children and Family Services, Economic Stability, LR 39:

### **Subpart 3. Supplemental Nutritional Assistance Program (SNAP)**

#### **Chapter 19. Certification of Eligible Households**

##### **Subchapter P. Recovery of Over-Issued SNAP Benefits**

###### **§2005. Claims Against Households**

A. All adult household members are jointly and severally liable for the value of any over-issuance of benefits to the household. This is true regardless of whether the over-issuance resulted from inadvertent error, an administrative error or an intentional program violation.

B. Action will not be taken to recover claims which are \$125 or less for inadvertent household error or an administrative error for non participating households.

This threshold does not apply to claims for participating households, to claims which are determined to be the result of intentional program violation, or to errors which are discovered in a quality control review.

AUTHORITY NOTE: Promulgated in accordance with F.R. 48:6837 et seq., P.L. 97-35, 97-253, 101-624 §1746, and 102-237 §911, 7 CFR 272.273, 276 and 277, P.L. 103-66, P.L. 104-193, P.L. 104-134, 7 CFR 3 Subpart B, and P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:323 (May 1983), amended by the Department of Social Services, Office of Family Support, LR 18:1133 (October 1992), LR 20:899 (August 1994), LR 21:189 (February 1995), LR 22:584 (July 1996), LR 23:83 (January 1997), LR 23:1710 (December 1997), LR 24:2326 (December 1998), LR 27:1017 (July 2001), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2533 (November 2010), amended by the Department of Children and Family Services, Economic Stability, LR 39:

### **Subpart 12. Child Care Assistance Program**

#### **Chapter 51. Child Care Assistance Program**

##### **Subchapter A. Administration, Conditions of Eligibility, and Funding**

###### **§5106. Ineligible Payments**

A. All ineligible benefits are subject to action to recover such benefits with the exception of inadvertent household error claims and administrative error claims of \$125 or less for non participating households.

B. Action will be taken to recover all claims for participating households, all claims which are determined to be the result of intentional program violation (IPV), and all claims resulting from errors which are discovered in a quality control review.

C. When a participant is suspected of IPV, appropriate referral and forms shall be submitted to the Fraud and Recovery Section. The Fraud and Recovery Section may then:

1. refer the case for prosecution; or

2. refer the case to the Appeals Bureau for a disqualification hearing if the participant does not sign the waiver of right to an administrative hearing and the facts of the case do not warrant civil or criminal prosecution through the appropriate court systems; or the case was previously referred for prosecution and was declined by the appropriate legal authority; or the case was previously referred for prosecution and no action was taken within a reasonable period of time and the referral was formally withdrawn by Fraud and Recovery.

D. If IPV is established, Fraud and Recovery will send a notice to the person to be disqualified and a copy of the notice to the local DCFS office. The local DCFS office will take action to disqualify for the appropriate situations:

1. 12 months for the first violation;
2. 24 months for the second violation; and
3. permanently for the third violation.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2535 (November 2010), amended by the Department for Children and Family Services, Economic Stability, LR 39:

### **Subpart 13. Kinship Care Subsidy Program (KCSP)**

#### **Chapter 53. Application, Eligibility, and Furnishing Assistance**

##### **Subchapter C. Recovery**

###### **§5383. Recovery of Overpayments**

A. All KCSP overpayments shall be subject to collection either by recoupment or recovery with the exception of inadvertent household error claims and administrative error claims of \$125 or less for non participating households.

B. Action will be taken to recover all claims for participating households and claims which are determined to be the result of intentional program violation.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:429 (March 2001), amended LR 34:2678 (December 2008), amended by the Department for Children and Family Services, Economic Stability, LR 39:

### **Family Impact Statement**

1. What effect will this Rule have on the stability of the family? This Rule minimally impacts the family's financial resources and could affect the family's stability.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? This Rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This Rule may have a negative effect on the functioning of the family.

4. What effect will this have on family earnings and family budget? This Rule will have no effect on family earnings. This Rule may result in additional expenses in the family budget.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will have no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, these functions are department functions.

#### **Poverty Impact Statement**

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

#### **Small Business Statement**

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The department, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### **Public Comments**

All interested persons may submit written comments through, June 25, 2013, to Sammy Guillory, Deputy Assistant Secretary of Programs, Department of Children and Family Services, P.O. Box 94065, Baton Rouge, LA 70804-9065.

#### **Public Hearing**

A public hearing on the proposed Rule will be held on June 25, 2013, at the Department of Children and Family Services, Iberville Building, 627 North Fourth Street, Seminar Room 1-127, Baton Rouge, LA, beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (voice and TDD).

Suzy Sonnier  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Recovery of Overpayments and Over-Issuances**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The Department of Children and Family Services (DCFS) proposes to amend LAC 67:III, Subpart 2 Family Independence Temporary Assistance Program (FITAP), Chapter 15, Subchapter B, Section 1503; Subpart 3 Supplemental Nutritional Assistance Program (SNAP), Chapter 19, Subchapter P, Section 2005; Subpart 12 Child Care Assistance Program (CCAP), Chapter 51, Subchapter A, Section 5106; and Subpart 13 Kinship Care Subsidy Program (KCSP), Subchapter C, Section 5383.

This proposed rule will adopt Food and Nutrition Service (FNS) standard recovery thresholds and cost effectiveness policy for recovery of over-issued benefit claims against SNAP households and align recovery of overpayment thresholds in FITAP, KCSP, and CCAP. Amendments are pursuant to the

authority granted to the department by Louisiana's Temporary Assistance for Needy Families (TANF) Block Grant; Food and Nutrition Act of 2008, in accordance with federal regulations for SNAP in 7 CFR 273.18; and the Child Care and Development Fund (CCDF).

The department anticipates by changing the recovery thresholds for participating and non-participating households that more recovery claims will be established. However, the actual savings resulting from the proposed action are difficult to determine because recovery thresholds vary by program. It is anticipated that approximately \$1,148 (\$287 SGF and \$861 FED) will be expended in SFY 12-13 for the state's administrative expense for promulgation of this proposed rule and the final rule. This is a one-time expense that is routinely included in the department's operating budget.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Implementation of this rule will have no effect on state or local revenue collections.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There are no anticipated costs and/or economic benefits to directly affected persons or non-governmental groups.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no estimated impact on competition and employment.

Sammy Guillory  
Deputy Assistant Secretary  
1305#065

John D. Carpenter  
Legislative Fiscal Officer  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Board of Elementary and Secondary Education**

Bulletin 741—Louisiana Handbook for School  
Administrators (LAC 28:CXV.Chapters 1-33)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—The Louisiana Handbook for School Administrators*. The proposed policy changes update current policies, correct technical errors, and provide more local flexibility and autonomy.

#### **Title 28**

#### **EDUCATION**

#### **Part CXV. Bulletin 741—Louisiana Handbook for School Administrators**

#### **Chapter 1. Foreword**

#### **§101. Purpose**

A. Policies passed by the Board of Elementary and Secondary Education (BESE) govern the operation of public elementary, middle, and secondary schools. *Bulletin 741—Louisiana Handbook for School Administrators*, contains policies for the administration of public schools.

B. The contents of this bulletin have been revised and reorganized for more efficient use as a reference document for district and school administrators. The bulletin has been extensively reviewed by members of BESE, the Louisiana Department of Education (LDE), and a statewide review committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1257 (June 2005), amended LR 39:

### **Chapter 3. Operation and Administration**

#### **§303. General Powers of Local Educational Governing Authorities**

A. Each local school board shall determine the number and location of schools to be opened, and the number of teachers and other school personnel to be employed from recommendations made by the local superintendent.

B. Each local school board is authorized to adopt rules and regulations for its own governance that are consistent with law and with the regulations of BESE.

1. Each member of a city and parish school board shall receive a minimum of six hours of training and instruction annually in the school laws of this state, in the laws governing the school boards, and in educational trends, research, and policy. Such training shall also include education policy issues, including but not limited to the Minimum Foundation Program (MFP) and formula, literacy and numeracy, leadership development, dropout prevention, career and technical education, redesigning high schools, early childhood education, school discipline, and harassment, intimidation, and bullying. Training shall also include instruction in Louisiana Open Meeting Law and the Louisiana Public Bid Law. In an LEA that has one or more schools identified as an academically unacceptable school or a school in need of academic assistance as defined by BESE, at least two of the required hours shall focus on the improvement of schools identified as failing schools as defined by BESE.

2. The training may be received from a postsecondary education institution, the LDE, the local school board central office staff, or the Louisiana School Board Association (LSBA) provided that the instruction and the method for demonstrating attendance are pre-approved by the LSBA or at any conference presented by the National School Boards Association or by the Council of the Great City Schools, provided that verification of attendance by the school board member at the training is obtained.

3. Each school board member's attendance shall be reported by the instructor to the LSBA. Each school board member who completes required instruction shall receive a certificate of completion and a copy of such certificate shall be entered into the minutes of the school board on which the member serves.

4. The superintendent of the school system on which the school board member serves shall be responsible for verifying that any training or instruction received by the school board member as set forth in this Section meets the necessary requirements.

##### **5. Distinguished School Board Member**

a. A school board member who has received a certificate of completion for the initial 16 hours of training and instruction and has also received an annual certificate of completion of the required training for three subsequent consecutive years shall receive the designation of "distinguished school board member."

b. LDE shall issue each such member an appropriate certificate attesting to such designation.

c. A member in office on January 1, 2011, who has prior service on the board may receive the designation if he completes 16 hours of training during 2011 and completes

the required training for the subsequent three consecutive years.

d. At least annually, the school system superintendent shall transmit to the newspaper which is the official journal of the school board a press release detailing the information for his school board that is posted on the LSBA website relative to training hours and subject matter completed by each school board member and to include in such press release information concerning each member who has been designated a distinguished school board member.

##### **C. - G. ...**

H. Each local school board shall develop and adopt rules and policies regarding the dismissal and discipline of school employees including but not limited to the following issues:

1. dismissing teachers at any time a reduction in force is instituted by the school board;

2. dismissing school employees who have not attained tenure;

3. the investigation of employees accused of impermissible corporal punishment or moral offenses involving students;

4. the investigation of any employee in any case in which there is a public announcement by the board that the employee may be disciplined, whether or not there is an accompanying reduction in employee pay; and

5. grievance procedures for teachers and school employees.

I. No city or parish school board shall adopt any policy which forbids or discourages any teacher or other school board employee from reporting directly to any appropriate law enforcement authority any apparent criminal activity by any person involving, or appearing to involve, controlled dangerous substances, or any other apparent illegal activity.

1. No parish or city school board shall adopt any policy that would have the effect of preventing or hindering the response of law enforcement officials on school board property, to reports of illegal activity.

J. Each city and parish school board may enter into voluntary compacts with other LEAs for the purpose of providing multiparish education programs of all kinds in accordance with R.S. 17:100.2.

K. Each city, parish, or other local public school board shall conduct exit interviews for teachers who leave their employ and annually report this information to BESE. The local school board shall use the forms and reporting system developed by BESE for this purpose.

L. No board member shall act in an individual capacity to use the authority of his office or position as a member of the school board in a manner intended to interfere with, compel, or coerce any personnel decision including the hiring, promotion, discipline, demotion, transfer, discharge, or assignment of work to any school employee.

M. No board member shall use the authority of his office or position as a member of the school board in a manner intended to interfere with, compel, or coerce any school employee to make any decision concerning benefits, work assignment, or membership in any organization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:53, R.S. 17:54, R.S. 17:81, 17:81.2, and 17:81.4-8, R.S. 17:100.2, and R.S. 17:151.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1257 (June 2005),

amended LR 35:1474 (August 2009), LR 35:1876 (September 2009), LR 37:1136 (April 2011), LR 39:

### **§307. Philosophy and Purposes**

A. It shall be the responsibility of each LEA and school to formulate a written statement of its philosophy and purposes and/or mission statement. This statement shall give direction to the education program. The philosophy and purposes shall be on a system-wide basis and shall be adapted to meet the needs of each school within the system.

AUTHORITY NOTE: Promulgated in accordance with La. Const. Art. VIII Preamble and R.S. 17:6 and R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1258 (June 2005), amended LR 39:

### **§311. System Accreditation**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.9.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1258 (June 2005), repealed LR 39:

### **§313. Special Education Program Monitoring**

A. Each LEA shall participate in a system of special education program monitoring. The LEA shall receive a formal monitoring report. If areas of noncompliance are identified, the LEA shall be required to propose corrective actions that will be undertaken and identify timelines for correction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1259 (June 2005), amended LR 39:

### **§315. School Approval**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1259 (June 2005), repealed, LR 39:

### **§319. Classification of Established Schools**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and R.S. 17:92.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1259 (June 2005), repealed LR 39:

### **§321. Review and Evaluation**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:7, and R.S. 17:22.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1260 (June 2005), repealed LR 39:

### **§323. Louisiana Educational Assessment Program**

A. Each LEA shall participate in the Louisiana Educational Assessment Program (LEAP).

B. Performance standards for LEAP and Graduation Exit Examination (GEE) and end-of-course tests should be comparable to the rigor of national achievement tests including but not limited to the National Assessment of Educational Progress (NAEP) performance standards.

C. LEAP alternate assessment participation criteria shall be used by IEP teams to document that a student meets the criteria to participate in LEAP Alternate Assessment.

D. Schools shall ensure that student participation is documented on the LEAP alternate assessment participation criteria form as approved by BESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1260 (June 2005), amended LR 39:

### **§325. Kindergarten and Prekindergarten**

A. - B.1. ...

C. Each LEA shall require that every child entering kindergarten for the first time be given a nationally recognized readiness screening. The results of this screening shall be used in placement and for planning instruction. The pupil progression plan for each LEA shall include criterion for placement.

1. The parent or guardian of each child shall be advised of the nature of the child's level of readiness.

2. Each LEA shall report to the LDE screening results by school on an annual basis by December 1 of each year.

D. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.8, R.S. 17:151.3, and R.S. 17:391.11.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1260 (June 2005), amended LR 39:

### **§329. Remedial Education Programs**

A. - B. ...

C. Each LEA shall participate in the LDE's remedial education program evaluation.

NOTE: Refer to *Bulletin 1566—Pupil Progression Policies and Procedures* and the addendum and Bulletin 1566, regulations for the implementation of remedial education programs related to the LEAP/CRT Program, regular school year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:394 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1261 (June 2005), amended LR 39:

### **§331. Special Education Programs**

A. Each LEA shall provide special education programs for all exceptional students.

B. Education for exceptional students shall be maintained in the least restrictive environment appropriate to the students' needs.

C. Each LEA shall ensure that the placement of exceptional students in special education services and settings is determined by the student's IEP placement committee and occurs only with the written consent of the parent(s) or legal guardian for the initial IEP.

D. Children who have been receiving special education in another state or in another school system within Louisiana, and have an IEP in effect from the previous system shall be provided FAPE until the following conditions occur:

1. if the student is transferring from another state, eligibility is determined, and a new IEP is developed, if appropriate;

2. if the student is transferring from within Louisiana, the current IEP is adopted or a new IEP is developed.

NOTE: Refer to *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1261 (June 2005), amended LR 39:

### **§333. Instructional Time**

A. Each LEA shall adopt a calendar that includes a school year that is in accordance with applicable state regulations and includes a minimum of 63,720 minutes of instructional time.

1. Instructional time shall include the scheduled time within the regular school day devoted to teaching courses outlined in the program of studies. Instructional time does not include such things as:

- a. recess;
- b. lunch;
- c. change of class time; and
- d. parent-teacher conferences.

B. Each LEA may include in its calendar a provision for dismissal of senior students prior to the end of the school year. This provision is not to exceed 10 days of instructional time or the equivalent number of minutes.

C. General election day shall be designated by each LEA as a holiday every four years for the presidential election.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:154.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1261 (June 2005), amended LR 39:

### **§335. Program Evaluation for State Board Approval Programs**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:7, R.S. 17:391.6, and R.S. 17:391.10.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1261 (June 2005), repealed LR 39:

### **§337. Written Policies and Procedures**

A. Each LEA shall have written policies governing all school activities as they relate to students, the instructional program, staff, buildings, services, and the curriculum.

B. Repealed.

C. Each LEA shall have policies and procedures that address, but are not limited to, the following:

1. the establishment of the number of school days, length of the school day, and other necessary guidelines for the operation of the schools;

2. provision of special educational and related services to exceptional students in accordance with the IEP for the entirety of the school year;

3. - 4. ....

5. the exclusion of students with communicable diseases and their readmittance following their recovery (refer to *Bulletin 135—Health and Safety*, §309);

6. the control of communicable problems such as lice and scabies (refer to *Bulletin 135—Health and Safety*, §309);

7. the care of sick or injured students, including notification of parents, in cases of emergencies that occur while students are under the jurisdiction of the school;

8. the administration of medication in schools (refer to *Bulletin 135—Health and Safety*, §309);

9. - 23. ...

24. grade appropriate classroom management training for teachers, principals, and other appropriated school personnel regarding positive behavioral supports and

reinforcement, conflict resolution, mediation, cultural competence, restorative practices, guidance and discipline, and adolescent development;

25. a schedule for the retention and disposition of records. The schedule shall be approved by State Archives as required by R.S. 44:411;

26. appropriate responses to the behavior of students with exceptionalities that may require immediate intervention (see for reference guidelines for the use of seclusion rooms and restraint of students with exceptionalities);

27. an employee arrested for any of the crimes listed in R.S. 15:587.1, any other sexual offense affecting minors, or any justified complaint of child abuse or neglect;

28. the reporting of school bus operator arrests for violations of R.S. 14:98, 98.1, or any other law or ordinance that prohibits operating a vehicle while under the influence of alcohol or any abused substance or controlled dangerous substance set forth in the schedules provided in R.S. 40:964; and

29. in the student code of conduct, the prohibition against bullying as defined in §1301.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:7(29), R.S. 17:81, R.S. 17:240, and R.S. 17:100.8.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1261 (June 2005), amended LR 33:429 (March 2007), LR 35:1101 (June 2009), LR 36:1224 (June 2010), LR 37:1141 (April 2011), LR 37:1380, 1380 (May 2011), LR 37:2134 (July 2011), LR 38:40, 41 (January 2012), LR 39:

### **§341. Homeless Children and Youth**

A. Each LEA shall establish a written policy to provide for the placement in school and for the education of any child temporarily residing within the jurisdiction of the board who has no permanent address, who has been abandoned by his parents, or who is in foster care pursuant to placement through the Department of Children and Family Services. However, this does not require the enrollment of any child not permitted by another school system to attend school, either permanently or temporarily, as a result of disciplinary action(s).

B. - J. ...

K. Each LEA that receives a homeless direct grant award from the SEA Office of Education for Homeless Children and Youth (EH CY) must coordinate the services provided and designate a homeless liaison to carry out certain mandates.

L. Each LEA shall review and revise any policies that may act as barriers to the enrollment of homeless children and youth. Further, LEAs must adopt policies and practices to ensure that homeless children and youth are not isolated or stigmatized.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:238 and 20 USCS 6311, 6312, 6313, and 6315.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1262 (June 2005), amended LR 39:

### **§343. Unsafe Schools**

A. Students who are the victims of violent crime shall be afforded the opportunity to transfer to a different school.

1. A student at a public elementary school, middle school or high school who becomes a victim of a crime of violence as defined by R.S. 14:2, while on school property, on a school bus or at a school-sponsored event, shall be

given the option to transfer to a public school within the school district in which the student's current school is located, which offers instruction at the student's grade level and which is not persistently dangerous, if there is such a school within that school district.

A.2. - B.5.c.viii. ...

6. The LDE shall annually reassess persistently dangerous schools. If a school no longer meets the criteria for a persistently dangerous school, taking into account the most recent completed school year and the school year immediately preceding the most recent completed school year, the school will not be deemed persistently dangerous.

C. Nothing herein shall prohibit LEAs from entering into agreements with one another allowing students who become the victims of crimes of violence while on school property, on a school bus, or at a school-sponsored event or who are attending persistently dangerous schools in one school district the option to transfer to a school, which is not persistently dangerous, in another school district. A student who has been assigned to a particular school, such as an alternative school or a special school, by court order shall not have the option to transfer.

AUTHORITY NOTE: Promulgated in accordance with 20 USCS 7912.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1263 (June 2005), amended LR 36:1498 (July 2010), LR 39:

#### **§345. Requesting Waivers of BESE Policy**

A. The superintendent of the LEA requesting deviation of any standard in this bulletin shall submit documentation to the LDE, justifying the request.

B. Technical assistance for meeting the policy as stated in this bulletin shall be provided to the LEA by the LDE.

C. When a deviation cannot be corrected by technical assistance, the LDE may consider a waiver of policy using the following guidelines.

##### **1. Waivers for Class Size**

a. The LDE may waive class size requirements up to two students over the maximum allowable upon receipt of the following:

i. a letter from the local superintendent detailing each class that exceeds the class size;

ii. documentation from the principal and the superintendent showing how efforts have been made to comply with standards; and

iii. class sizes above the limit of two will go directly to the appropriate board committee with an executive recommendation from the LDE.

##### **2. Course Requirement Waivers**

a. The LDE may waive up to one Carnegie unit required for graduation in the following circumstances:

i. waivers for students who transfer to Louisiana from another state during their senior year, are on course to graduate in their previous state of residence, and are unable to schedule and complete the needed course; and

ii. waivers due to administrative errors.

b. In each situation, the district must provide:

i. a letter of justification from the local superintendent; and

ii. a copy of the student's transcript.

D. Requests that do not meet BESE-approved guidelines for an administrative action shall be submitted by the state superintendent of education to the appropriate BESE committee with an executive recommendation for action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.2(B)(5), R.S. 17:24.10(C)(1)(c), R.S. 17:151(B)(2), R.S. 17:192(B)(2), R.S. 17:274(D), and R.S. 17:416.2(B).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1264 (June 2005), amended LR 39:

#### **§349. Complaint Procedures**

A. These complaint procedures are established for resolving complaints which may be filed against the LDE or an agency pursuant to provisions of the Elementary and Secondary Education Act of 1965, 20 U.S.C. §6301 et seq., (ESEA).

B. The following definitions apply to this Section.

*Agency*—a local educational agency, educational service agency, consortium of those agencies, or entity.

*Applicable Program*—any of the following ESEA programs for which the LDE has submitted a consolidated state plan or consolidated state application under the ESEA, which may include:

a. title I, part A (improving basic programs operated by local educational agencies);

b. title I, part B, subpart 3 (even start family literacy programs);

c. title I, part C (education of migratory children);

d. title I, part D (prevention and intervention programs for children and youth who are neglected, delinquent, or at-risk);

e. title I, part F (comprehensive school reform);

f. title II, part A (teaching and principal training and recruitment fund);

g. title II, part D (enhancing education through technology);

h. title III, part A (english language acquisition, language enhancement, and academic achievement);

i. title IV, part A, subpart 1 (safe and drug-free schools and communities);

j. title IV, part A, subpart 2 (community service grants);

k. title IV, part B (twenty-first century community learning centers);

l. title V, part A (innovative programs);

m. title VI, part A, subpart 1, sections 6111 and 6112 (improving academic achievement programs); and

n. title VI, part B, subpart 2 (rural and low-income schools program).

*Covered Program*—a federal program not defined as an applicable program for which the LDE is required to provide a complaint procedure and for which a complaint procedure is not otherwise provided by rule of the LDE.

C. This Subsection sets forth the specific procedures for resolving complaints that are filed pursuant to the ESEA.

1. LDE will receive complaints from individuals or organizations alleging:

a. a violation of law in the administration of an applicable program; or

b. a violation of a federal statute or regulation that applies to a covered program for which federal law permits the filing of a complaint with the LDE.

2. The complaint must be in writing and must include:

a. a statement that LDE or an agency has violated a requirement of a federal statute or regulation that applies to an applicable program or a covered program;

b. the facts on which the statement is based, including the name of the agency or agencies, and the specific requirement alleged to have been violated;

c. a proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed;

d. the signature and contact information for the complainant or his or her designated representative; and

e. the complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received by the LDE.

3. Upon receipt of a complaint against an agency that meets the requirements of §349.C.2, the LDE will acknowledge receipt of the complaint in writing and provide written notice to the agency against which the violation has been alleged. The LDE will provide the agency with the opportunity to resolve the complaint without a finding, with the participation and agreement of the complainant.

4. If the complaint concerns a violation by the LDE and meets the applicable requirements of §349.C.2, the state superintendent of education will appoint an impartial person(s) to conduct an investigation and resolve the complaint. The person(s) so appointed will acknowledge receipt of the complaint in writing.

5. All complaints must be resolved within 60 days of the date the LDE receives the complaint. Within that 60-day timeline, the LDE, or the impartial investigator when a complaint is filed against the LDE, will:

a. carry out an independent on-site investigation, if the LDE or impartial investigator determines that an investigation is necessary;

b. give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;

c. provide the LDE or agency with the opportunity to respond to the complaint, including, at the discretion of the agency, a proposal to resolve the complaint;

d. review all relevant information and make an independent determination as to whether the LDE or agency is violating a requirement of the ESEA; and

e. issue a written decision to the complainant that addresses each allegation in the complaint and contains:

i. findings of fact and conclusions;

ii. the reasons for the final decision; and

iii. a statement of the complainant's right to request the secretary of the U.S. Department of Education (secretary) to review the final decision, at the secretary's discretion.

6. Complaints regarding participation by private school children must be appealed to the secretary no later than 30 days after the decision is issued. An appeal regarding participation by private school children must be accompanied by a copy of the decision and a complete statement of reasons supporting the appeal.

7. Written decisions on complaints alleging violations by LDE will be provided to BESE.

8. Timelines for LDE's final decision may be extended if exceptional circumstances exist with respect to a particular complaint.

9. The LDE's final decision must be implemented and include, if needed:

a. technical assistance activities;

b. negotiations; and

c. corrective actions to achieve compliance.

10. Nothing herein shall preclude the availability of an informal resolution between the complainant and the LDE or agency, nor shall anything herein preclude or abrogate the availability of any administrative hearing opportunities as provided for by federal statute or regulation.

11. LDE will implement a process for tracking complaints received by LDE to facilitate timely investigation and resolution.

12. LDE will maintain a complaint log which includes the following components:

a. date of receipt of complaint;

b. name of complainant;

c. name of agency, or LDE if complaint is against LDE;

d. resolution, including technical assistance activities and corrective action plan, if needed;

e. date of resolution;

f. date of follow-up on technical assistance activities and corrective action plan, if assigned, and the results of that activity.

D. An agency will disseminate, free of charge, adequate information about the complaint procedures to parents of students, and appropriate private school offices or representatives.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 20 U.S.C. §6320, 20 U.S.C. §7883(a), 20 U.S.C. §7844(a)(3)(C), 34 CFR § 106.8(b), and 34 CFR §§299.11-299.12.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:1613 (August 2007), amended LR 39:

## **Chapter 5. Personnel**

### **§501. Criminal Background Checks**

A. Each LEA shall establish by regulation, requirements and procedures consistent with R.S. 17:15 and R.S. 15:587.1, through which it may request information from the Louisiana Bureau of Criminal Identification and Information necessary to ascertain whether an employee, or applicant for employment as a teacher, substitute teacher, bus driver, substitute bus driver, or janitor, or as a temporary, part-time, or permanent employee of any kind, including any person employed to provide cafeteria, transportation, or janitorial or maintenance services by any person or entity that contracts with a school or school system to pervade such services, has been arrested for, convicted of, or pled nolo contendere to, any criminal offense.

1. The regulation shall include the requirement and the procedure for the submission of a person's fingerprints on a form acceptable to the bureau.

2. The request for information necessary to determine whether a person has been arrested for, convicted of, or pled nolo contendere to, any criminal offense must be on a form

prepared by the bureau and must be signed by a responsible officer or official of the LEA making the request.

3. It must include a statement signed by the person about whom the request is made which gives permission for such information to be released and must include the person's fingerprints in a form acceptable to the bureau.

4. A person whose fingerprints have been submitted to the bureau may be temporarily hired pending the report from the bureau.

B. No person who has been convicted of or has pled nolo contendere to a crime listed in R.S. 15:587.1(C) shall be hired by a public elementary or secondary school as a teacher, substitute teacher, bus driver, substitute bus driver, janitor, or as a temporary, part-time, or permanent employee of any kind, including any person employed to provide cafeteria, transportation, or janitorial or maintenance services by any person or entity that contracts with a school or school system to provide such services unless approved in writing by a district judge of the parish and the district attorney or, if employed on an emergency basis, unless approved in writing by the superintendent of the school system.

1. This statement of approval shall be kept on file at all times by the school and shall be produced upon request to any law enforcement officer.

2. Not later than 30 days after its being placed on file by the school, the school principal shall submit a copy of the statement of approval to the state superintendent of education.

C. The LEA shall dismiss any teacher or any other school employee having supervisory or disciplinary authority over school children, if such teacher or school employee is convicted of, or pleads nolo contendere to, any crime listed in R.S. 15:587.1(C), except R.S. 14:74.

D. An LEA may reemploy a teacher or other school employee who has been convicted of, or pled nolo contendere to, a crime listed in R.S. 15:587.1(C), only upon written approval of the district judge of the parish and the district attorney or upon written documentation from the court in which the conviction occurred stating that the conviction has been reversed, set aside, or vacated.

1. Any such statement of approval of the judge and the district attorney and any such written documentation from the court shall be kept on file at all times by the school and shall be produced upon request to any law enforcement officer.

2. Not later than 30 days after its being placed on file by the school, the school principal shall submit a copy of any such statement of approval or written documentation from the court to the state superintendent of education.

E. A teacher or other school employee, upon final conviction or plea of guilty or nolo contendere to any criminal offense, excluding traffic offenses, shall report the fact of the conviction or plea to his employer within 48 hours of the conviction or plea.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:15 and R.S. 17:587.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1265 (June 2005), amended LR 33:431 (March 2007), LR 34:607 (April 2008), repromulgated LR 35:443 (March 2009), amended LR 35:1473 (August 2009), LR 39:

### **§503. Staff Organization**

A. The professional staff of the local LEA's central office shall be organized with assigned roles, responsibilities and authority to provide a structure for implementing local school policies.

B. Each LEA shall be required to employ certified personnel as required by state/federal law:

1. superintendent;
2. special education supervisor;
3. title IX coordinator;
4. child welfare and attendance supervisor;
5. school nurse;
6. school food services supervisor;
7. business manager.

NOTE: See *Bulletin 1929—Louisiana Accounting and Uniform Governmental Handbook*, §1301.

C. The LEAs shall assign principals to schools as appropriate.

D. For LEAs in any parish having a population of at least 300,000 persons, a full-time social worker shall be employed in each school which has been identified as a failing school.

E. There shall be alcohol, drug, and substance abuse counselors who regularly visit every secondary school and elementary school at a maximum ratio of four schools to one counselor, for the purpose of counseling students who have been identified as having an alcohol, drug, or substance abuse problem.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:15, R.S. 17:28, R.S. 17:29, R.S. 17:54, R.S. 17:81, R.S. 17:84.2, R.S. 17:228, R.S. 17:403, R.S. 17:1947(F), and 7 CFR 210.3(a).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1265 (June 2005), amended LR 33:2352 (November 2007), LR 39:

### **§505. Certification of Personnel**

A. To be eligible legally for teaching, administrative, supervisory, or other professional services in the public schools of Louisiana, personnel shall hold a valid Louisiana certificate appropriate to the services rendered or shall receive annual approval in accordance with provisions allowed by BESE.

NOTE: Refer to *Bulletin 746—Louisiana Standards for State Certification of School Personnel*.

B. In the event that an LEA in Louisiana, through its locally authorized governing board, chooses to select a superintendent who does not meet the eligibility requirements necessary to obtain certification as a superintendent, such LEA may appoint the candidate, provided that:

1. the district appoints a chief academic officer whose primary and substantial job description shall govern the academics of the district including curriculum and instruction;

2. the chief academic officer possesses a valid state-issued teaching certificate;

3. the chief academic officer also meets all criteria required of a superintendent set forth in existing BESE policy; and

4. the chief academic officer is appointed no later than 120 days after the appointment of the superintendent candidate.

C. Teachers in core academic subject areas (English, reading/language arts, mathematics, science, foreign



languages, arts, and social studies) must meet the highly qualified requirements in order to teach in any core academic subject.

1. For the non-core academic subject areas, full-time secondary certified teachers in schools including grades 6-12 (or any combination thereof) may be allowed to teach a maximum of two periods in one subject out of their field of certification if they have earned 12 hours in that subject. Secondary certified teachers shall not teach below the sixth grade level.

D. Each LEA shall ensure that supervision is provided for school psychologists, school social workers, speech therapists, and any other personnel not certified or licensed to practice their respective discipline without supervision and who are provisionally employed contingent upon such specific documented supervision in accordance with policy in Bulletin 746.

E. Any employee of any LEA whose duty is to transport students in any city or parish activity in a school bus shall meet LDE requirements.

NOTE: Refer to *Bulletin 1191—Louisiana School Transportation Specifications and Procedures*.

F. Each LEA shall establish standards for certification of special education paraprofessionals and shall issue permits based on these standards.

G. Teachers certified at the secondary level shall be allowed to teach at the sixth grade level in their respective areas of certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:7.1, R.S. 17:24.10, R.S. 17:81, R.S. 17:491, 17:497.2, and R.S. 17:1974.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1265 (June 2005), amended LR 33:2353 (November 2007), amended LR 38:1224 (May 2012), LR 39:

#### **§507. District Educational Leadership Induction Program**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3761.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1266 (June 2005), amended LR 32:1416 (August 2006), LR 38:40 (January 2012), repealed LR 39:

#### **§509. Personnel Evaluation**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3881 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1266 (June 2005), repealed LR 39:

#### **§511. Personnel Evaluation Plan Dissemination**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17: 3881 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1267 (June 2005), repealed LR 39:

#### **§513. Professional Staff Development**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.2 and R.S. 17: 3881 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1267 (June 2005), amended LR 35:1475 (August 2009), repealed LR 39:

#### **§515. Teachers' Retirement System—Part-Time, Seasonal or Temporary Classroom Teacher**

A. R.S. 11:162(C) provides that membership in the Teachers' Retirement System of Louisiana (TRSL) shall be required of part-time, seasonal, or temporary employees, as defined in 26 CFR 31.3121(b)(7)-2, who are classroom teachers and who have or earn five or more years of creditable service in the TRSL.

##### **B. Classroom Teacher**

###### **1. For the purposes of R.S. 11:162(C):**

###### ***Classroom Teacher—***

i. an employee of an LEA under the control of BESE or any educational institution supported by and under the control of BESE, or any LEA:

(a). whose job description and assigned duties include the instruction of pupils in courses in traditional or nontraditional classroom situations for which daily pupil attendance figures for the school system are kept; and

(b). who is classified under object code 112, as provided in Bulletin 1929, *Louisiana Administrative Code* Title 28, Part XLI §901.B.1.b, or is performing the functions, on a substitute basis, of an individual classified under object code 112;

ii. instruction of pupils, as used in Subclause i.(a) of this definition, shall include activities dealing directly with the interaction between teachers and pupils. Instruction may be provided for students in a school classroom, in another location such as a home or hospital, and in other learning situations such as those involving co-curricular activities. Instruction may also be provided through some other approved medium such as television, radio, telephone, and correspondence;

iii. classroom teachers shall include, but not be limited to:

- (a). traditional subject area;
- (b). special education;
- (c). library media;
- (d). resource;
- (e). itinerant;
- (f). music;
- (g). band;
- (h). chorus;
- (i). physical education;
- (j). home economics;
- (k). agriculture;
- (l). industrial arts;
- (m). computer science; and
- (n). business teachers.

iv. a teacher's status as an "employee," as used in Clause i of this definition, shall be consistent with the employment classification made by his or her employing agency, pursuant to applicable law.

##### **C. Rehired Retirees**

1. Any retired member of TRSL, other than a retired teacher as defined in R.S. 11:710, who returns to active service covered by TRSL, shall have retirement benefits suspended for the duration of reemployment.

2. In order for a person who qualifies as a retired teacher because he teaches in a shortage area to receive benefits during the period of her or his reemployment, the superintendent and the personnel director of the employing school must certify to BESE and the TRSL board of trustees

that a shortage of teachers exists in the area in which the retired teacher was hired to teach. For speech therapists, speech pathologists, and audiologists in a shortage area, the employer is required to certify that a shortage of such persons exists.

3. Prior to certification, for any full-time teaching position, the employer shall advertise the position twice in the official journal of the school's governing authority and non-retirees shall be given hiring preference over retirees, unless fewer than three applicants have applied for the position.

4. LEAs shall adhere to all applicable state regulations regarding membership in TRSL.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:162(C) and R.S. 11:710.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1267 (June 2005), amended LR 37:1140 (April 2011), LR 39:

## **§521. Physical Abuse of Teachers and School**

### **Employees by Students**

A. LEAs shall adopt rules and regulations to implement the following requirements regarding the physical abuse of public school teachers and other school employees by students.

1. LEAs shall keep an accurate record of incidents of such abuse.

2. LEAs shall provide appropriate equipment to protect teachers and other school employees from such abuse.

3. Support services shall be provided to teachers and other school employees which afford them the opportunity to discuss the stress caused by such abuse.

4. Any teacher or other school employee who has been the victim of such abuse shall be provided the opportunity to seek another position for which the teacher is certified within the same parish in which the teacher will not have contact with the student(s) involved, provided that there is another position available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:1138 (April 2011), amended LR 39:

## **Chapter 7. Records and Reports**

### **§703. Student Records**

A. Each school shall keep records for the registration and attendance of students and shall maintain an up-to-date permanent cumulative record of individual students showing personal data and progress through school.

1. Student cumulative records shall continually be updated and, when applicable, contain the following:

a. name, gender, social security number or a state-assigned identification number, date of admission, and date of birth;

b. name and address of parents, legal guardian, and/or next of kin;

c. language or means of communication, spoken or understood;

d. a cumulative record of the student's progress through the curriculum;

e. health history;

f. student grades;

g. attendance records;

h. results of vision and hearing screening;

i. all immunizations given in accordance with the requirements of the Office of Public Health (OPH), Louisiana Department of Health and Hospitals (DHH) recorded on a cumulative health record;

j. scores on statewide assessments and scores on local testing programs and screening instruments necessary to document the local criteria for promotion;

k. information (or reasons) for student placement, including promotion, retention, and/or remediation and acceleration;

l. information on the outcome of student participation in remedial and alternative programs; and

m. a copy of the letter informing the parent of either the placement of the student in or the removal of the student from a remedial education program.

2. The following are applicable to students eligible under IDEA or section 504:

a. records of parent/teacher conferences prior to referral to pupil appraisal;

b. results of all educational screening information;

c. educational interventions and their results;

d. multi-disciplinary evaluation reports;

e. a copy of the IEP, including least restrictive environment justification;

f. a copy of the individualized accommodation program (IAP);

g. a copy of the parent's written consent for the student to be moved from an alternative to a regular placement program;

h. documentation of contact with school building level committee prior to referral to pupil appraisal;

i. access sheet for special education confidentiality.

B. Each teacher shall be provided with a recording system in which the roster of each class taught shall be maintained and on which all data used to determine student progress shall be recorded.

C. Student records shall be reviewed regularly, and results shall be used for instructional planning, student counseling, and placement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:170, R.S. 17:182, R.S. 17:232, R.S. 17:391.3, R.S. 17:391.4, R.S. 17:400, R.S. 17:1944, and R.S. 17:2112.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1268 (June 2005), amended LR 39:

### **§705. Student Academic Records and Reports**

A. A report of each student's progress in school shall be provided to parents or guardians at intervals designated by the LEA and shall contain a report of progress made by the student in each subject or area.

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with USCS 1232g, R.S. 17:112, R.S. 17:177, and R.S. 17:391.7(D).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1269 (June 2005), amended LR 39:

### **§707. Evaluation of Transfer Students' Records**

A. A student transferred from an approved school, in- or out-of-state or foreign school, shall be allowed credit for work completed in the previous school. When a student transfers from one school to another, a properly certified transcript, showing the student's record of attendance,

achievement, immunization, and the units of credit earned, shall be required.

1. Records, including evaluation information for exceptional students transferring from another system, shall be reviewed by pupil appraisal and approved by the supervisor of special education before the student is enrolled in a special education program.

2. Students in grades five and nine transferring to the public school system from any in-state nonpublic school (state-approved and -unapproved), or home schooling program, or Louisiana resident transferring from any out-of-state school, shall be required to pass the English language arts and mathematics components portions of the state-developed LEAP placement test.

B. Local school officials from any state-approved school receiving a student from an unapproved school, in- or out-of-state, or approved home study programs, shall determine the placement and/or credits for the student through screening, evaluations, and/or examinations.

1. The principal and/or superintendent may require the student to take an examination on any subject matter for which credit is claimed.

2. The school issuing the high school diploma shall account for all credits required for graduation, and its records will show when and where the credit was earned.

3. Students in grades five and nine transferring to the public school system from any in-state nonpublic school (state-approved and -unapproved), or home schooling program, or Louisiana resident transferring from any out-of-state school, shall be required to pass the English language arts and mathematics components of the state-developed LEAP 21 placement test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:236.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1269 (June 2005), amended LR 39:

#### **§709. Transfer of Student Records**

A. The principal shall provide for the transfer of the education records, including special education records if applicable, of any current or former student at the school upon the written request of any authorized person on behalf of a public or nonpublic elementary or secondary school within or outside of the state of Louisiana, where the student has become enrolled or is seeking enrollment.

1. The transfer of such records, whether by mail or otherwise, shall occur not later than 10 business days from the date of receipt of the written request.

2. If a student has been expelled, the transferred records shall include the dates of the expulsion and the reasons for which the student was expelled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:112 and R.S. 17:221.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1270 (June 2005), amended LR 36:1224 (June 2010), LR 39:

#### **§711. Textbook Records**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:8, R.S. 17:8.1, and R.S. 17:93.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1270 (June 2005), repealed LR 39:

#### **§713. Attendance Records**

A. The attendance of all school students shall be checked each school day and at the beginning of each class period and shall be verified by the teacher keeping such records which shall be open to inspection by the supervisor of child welfare and attendance, or duly authorized representative, at all reasonable times. All schools shall immediately report to the visiting teacher, or the supervisor of child welfare and attendance, any unexplained, unexcused, or illegal absence, or habitual tardiness.

B. No public elementary or secondary school student who has not been emancipated by judicial decree or by marriage shall be permitted for any reason to leave school during the school day on his or her own authority.

1. The school principal or the principal's designee shall make all reasonable efforts to notify the parent or other person responsible for the student's school attendance of any such prohibited absence by a student.

2. For the purposes of notification as required by this section, a parent or other person responsible for a student's school attendance may designate in writing with the school principal one or more alternative contact persons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:232 and R.S. 17:235.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1270 (June 2005), amended LR 39:

#### **§715. System and School Reports**

A. Reports required by the LDE and BESE shall be made on appropriate forms, shall contain accurate information, and shall be returned by the specified date.

1. The certification form shall be signed by the superintendent verifying that all data submitted are accurate.

B. Each local superintendent shall keep a record of all business transacted by him as superintendent.

C. On dates specified by the LDE, the local superintendent shall forward the information required for the completion of the annual financial and statistical report to the LDE.

1. Schools shall furnish information required for the completion of the Annual Financial and Statistical Report on report forms supplied by the LEA.

D. Each LEA shall provide reports as required by the LDE for the review of the status and needs for additional construction and/or renovation of the physical facilities of the physical facilities of the LEA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.5, R.S. 17:92, and R.S. 17:93.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1270 (June 2005), amended LR 39:

#### **§717. Reports of High School Credit**

A. A finalized list of graduates shall be submitted by the state-approved high school accompanied by the assurance statement signed by both the principal and the superintendent of the LEA in order to receive diplomas.

1. Prior to February 15 for mid-term graduates and prior to June 15 for spring graduates, a certificate of high school credits for each graduate shall be submitted by each state-approved high school as required.

2. A certificate of high school credits (transcript) shall be submitted by the state-approved high school in order for a

diploma to be issued to those students graduating or exiting at times other than mid-term and spring.

3. Upon receipt of the finalized list of graduates, the LDE will issue the diplomas.

B. Prior to the date of graduation or options program completion, the LDE shall have the authority to determine the issuance of a diploma or an options program skill certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(11).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1270 (June 2005), amended LR 39:

### **§719. Reports to the Supervisors of Child Welfare and Attendance**

A. The principals, or administrators, and the teachers of all schools shall report the names, birth dates, race, parents, and residence of all students in attendance at their schools or classes in writing to the central office within 30 days after the beginning of the school term or session, and at such other times as may be required by BESE or the LDE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:232.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1271 (June 2005), LR amended LR 39:

## **Chapter 9. Scheduling**

### **§901. Scheduling**

A. The purpose of scheduling within available time frames and staff resources shall be to meet the educational needs of students.

B. Prior to student scheduling each year, each middle, junior, or high school shall provide the parent/guardian/legal custodian with a listing of course offerings including the course choice catalog, the content of each course, and high school graduation requirements where appropriate.

1. By the end of the eighth grade, each student shall develop, with the input of his family, an individual graduation plan. Such a plan shall include a sequence of courses that is consistent with the student's stated goals for one year after graduation.

2. Each student's individual graduation plan shall be reviewed annually thereafter by the student, parents, and school advisor and revised as needed.

3. Every middle, junior, or high school shall require that the parent/guardian/legal custodian sign his/her child's schedule form and the individual graduation plan for students in grades 8-12.

C. Student scheduling shall be individually appropriate and flexible to allow entry into and exit from courses and course sequences that are available for meeting curricular requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:175 and R.S. 17:183.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1271 (June 2005), amended LR 36:1498 (July 2010), LR 39:

### **§903. Exceptional Students**

A. Exceptional students shall not be placed in educational settings that exceed the maximum pupil/teacher ratio or the three-year chronological age span. The age span

requirement does not apply to programs for secondary-aged students (students aged 14-21).

B. Special class, separate schooling, or other removal of students with disabilities from the regular educational environment shall occur only when the nature or severity of the individual's needs is such that education in regular class with the use of supplementary aids and services cannot be achieved satisfactorily.

NOTE: Refer to *Bulletin 1706—Regulations for Implementation of the Children with Exceptional Act*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:151 and R.S. 17:1946.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1271 (June 2005), amended LR 39:

### **§907. Secondary—Class Times and Carnegie Credit**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:154.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1271 (June 2005), amended LR 38:1224 (May 2012), repealed LR 39:

### **§909. Length of School Day Requirements**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:154.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1272 (June 2005), repealed LR 39:

### **§913. Class Size and Ratios**

A. The maximum enrollment in a class or section in grades K-3 shall be 26 students and in grades 4-12, 33 students, except in certain activity types of classes in which the teaching approach and the materials and equipment are appropriate for large groups.

B. No teachers at the secondary level shall instruct more than 750 student hours per week, except those who teach the activity classes.

1. When a number of staff members are involved in a cooperative teaching project, the amount of each person's involved time may be counted in computing the individual teacher's load.

C. The maximum class size for health and physical education in grades K-8 and in physical education I and II shall be 40. No class may be combined with physical education I or II if the total number of students taught is more than 40.

D. The system-wide, student classroom teacher ratio in grades K-3 shall be a maximum of 20 students to one classroom teacher.

1. An LEA may request a waiver of this requirement from the state superintendent of education provided that the teacher has demonstrated effectiveness as defined by BESE in *Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel*.

NOTE: Refer to *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act* for pupil/teacher ratios for special education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17: 151 and R.S. 17:174.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1272 (June 2005), amended LR 39:

## **§915. Student Activities**

A. Each school shall have a well-balanced and effectively-administered student activity program.

B. Extracurricular activities shall not be scheduled during instructional time.

C. Extracurricular services and activities shall be offered to all exceptional students in a manner that allows them equal opportunity to participate in services and activities.

D. No school shall permit the existence or functioning of any fraternity, sorority, or secret society.

E. The scholastic rule of the Louisiana High School Athletic Association (LHSAA) shall be adhered to by all high schools under its jurisdiction.

NOTE: See for reference the LHSAA website at [www.lhsaa.org](http://www.lhsaa.org).

F. All athletic contests shall be scheduled after school hours.

1. When possible, no instructional time should be missed by student athletes when traveling to athletic events.

2. If teams are allowed to be released from school early to attend these events, released time should be kept to a minimum and the LHSAA's regular season released-time plan must be followed when determining the released time to be used.

3. All class work missed by student athletes while attending athletic events must be made up as soon as possible in the same manner that would be required of other students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:176.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1272 (June 2005), amended LR 39:

## **Chapter 11. Student Services**

### **§1103. Compulsory Attendance**

A. - B.1.c. ...

2. If a student is under the age of 18, the parent or guardian may withdraw the student from high school if that student is accepted into a National Guard Youth Challenge Program in this state.

3. - 4.c. ...

C. Students shall be expected to be in attendance every student-activity day scheduled by the LEA.

D. A student is considered to be in attendance when he or she is physically present at a school site or is participating in an authorized school activity and is under the supervision of authorized personnel.

1. This definition for attendance would extend to students who are homebound, assigned to and participating in drug rehabilitation programs that contain a state-approved education component, participating in school-authorized field trips, or taking a state-approved virtual course.

a. Half-Day Attendance. Students are considered to be in attendance for one-half day when they:

i. are physically present at a school site or participating in authorized school activity; and

ii. are under the supervision of authorized personnel for more than 25 percent but not more than half (26-50 percent) of the students' instructional day.

b. Whole-Day Attendance. Students are considered to be in attendance for a whole day when they:

i. are physically present at a school site or are participating in an authorized school activity; and

ii. are under the supervision of authorized personnel for more than 50 percent (51-100 percent) of the students' instructional day.

E. A student who is enrolled in regular or special education and who, as a result of healthcare treatment, physical illness, accident, or the treatment thereof, is temporarily unable to attend school, shall be provided instructional services in the home or hospital environment.

1. Homebound instruction shall be provided by a properly certified teacher on the eleventh school day following an absence of more than 10 consecutive school days for a qualifying illness.

a. After a student has been absent for 10 days for one of the above identified reasons, the student shall be referred for review by the SBLC, to determine need for referral for section 504 services if the student has not previously been identified as a student with a disability.

2. Homebound instruction, at a minimum, shall be provided in the core academic subjects:

- a. English;
- b. mathematics;
- c. science; and
- d. social studies.

3. A minimum of four hours of homebound instruction shall be provided per week, unless the student's health as determined by a physician requires less.

a. Consideration shall be given to the individual need for services beyond the core academic subjects for students with disabilities.

4. Homebound services may be provided via a consultative model (properly certified regular or special education teacher when appropriate, consults with the homebound teacher delivering instruction) for students needing such services less than 20 days during a school year.

F. Elementary students shall be in attendance a minimum of 60,120 minutes (equivalent to 167 six-hour days) a school year. In order to be eligible to receive grades, high school students shall be in attendance a minimum of 30,060 minutes (equivalent to 83.5 six-hour school days), per semester or 60,120 minutes (equivalent to 167 six-hour school days) a school year for schools not operating on a semester basis.

1. Students in danger of failing due to excessive absences may be allowed to make up missed time in class sessions held outside the regular class time. The make-up sessions must be completed before the end of the current semester and all other policies must be met.

G. Repealed.

H. - M. ...

N. If a student is absent from school for 2 or more days within a 30-day period under a contract or employment arrangement to render artistic or creative services for compensation as set forth in the Child Performer Trust Act (R.S. 51:2131 et seq.) the employer shall employ a certified teacher, beginning on the second day of employment, to provide a minimum of three education instruction hours per day to the student pursuant to the lesson plans for the particular student as provided by the principal and teachers at the student's school. There must be a teacher to student ratio of one teacher for every 10 students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:112, R.S. 17:221.3-4, R.S. 17:226.1, and R.S. 17:233.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1273 (June 2005), amended LR 32:546 (April 2006), LR 32:1030 (June 2006), LR 33:2351 (November 2007), LR 35:641 (April 2009), LR 35:1097 (June 2009), LR 35:1475 (August 2009), LR 36:482 (March 2010), LR 36:1224 (June 2010), LR 37:1126 (April 2011), LR 37:2132 (July 2011), LR 38:1000 (April 2012), LR 38:1225 (May 2012), LR 38:1399 (June, 2012), LR 39:

#### **§1105. Types of Absences**

A. - B. ....

C. *Exempted, Excused Absences*—absences which are not considered for purposes of truancy and which are not considered when determining whether or not a student is eligible to make up work and tests, receive credit for work completed, and receive credit for a course and/or school year completed.

D. - E. ....

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:226, R.S. 17:235.2, and R.S. 17:416.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1274 (June 2005), amended LR 36:482 (March 2010), LR 37:1127 (April 2011), LR 39:

#### **§1107. Entrance Requirements**

A.1.All students, upon entering school for the first time, shall present:

a. an official birth certificate (Children born in Louisiana will be given a 15-day grace period to secure a copy of their birth record. Children born out of this state will be given 30 days' grace in which to produce a copy of their birth record.);

b. a record of immunization; and

c. an official Social Security card. If no Social Security number is available, the student shall be assigned a state identification number.

2. In cases where birth certificates and/or birth verification forms cannot be obtained, the school principal may accept other positive proof of age, race, and parentage is available. It shall be left to the discretion of the local superintendent of schools, subject to the authority of the school board, as to whether or not a child shall continue in school upon failure to comply herewith.

B. Every child, as a prerequisite to enrollment in any first grade of a public school, shall meet one of the following criteria:

1. have attended a full-day public or private kindergarten for a full academic year; or

2. have satisfactorily passed academic readiness screening administered by the LEA at the time of enrollment for first grade.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:151.3, 17:170, and 17:222.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1274 (June 2005), amended LR 33:2353 (November 2007), LR 39:

#### **§1109. Assignment and Transfer of Students**

A. - B.1. ....

2. If not specifically contrary to the provisions of an order of a court of competent jurisdiction providing for the assignment of students within the LEA, a city or parish school board in Caddo or St. Tammany Parish, shall assign a student to attend any public high school requested by a parent or other person responsible for the student's school attendance when the requested school has space available

and is of a suitable grade level, and the student resides not more than 2 miles from such school. A school board shall not be required to provide transportation to any student enrolled in high school pursuant to the provisions of this Paragraph.

NOTE: Refer to §303.D.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:105, R.S. 17:221.2, and R.S. 17:221.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1274 (June 2005), amended LR 33:2353 (November 2007), LR 36:1225 (June 2010), LR 37:1126 (April 2011), LR 39:

#### **§1111. Age Requirements**

A. Special education shall be provided for exceptional students aged 3-21, unless they have received a diploma. The LEA shall have the option to provide preschool special education to students with disabilities aged 0-2 years.

B. Each LEA shall provide for and offer full-day kindergarten instruction to each eligible child in every school having a first grade or in a parish kindergarten center.

C. The minimum age for kindergarten shall be one year younger than the age required for that child to enter first grade.

1. Each local educational governing authority, by rule, may provide, for a child of younger age, to enter kindergarten provided that such child has been evaluated and identified as gifted in accordance with the regulations of the DOE for such evaluation. Any child admitted to kindergarten pursuant to this Paragraph shall be eligible to enter first grade upon successful completion of kindergarten, provided all other applicable entrance requirements have been fulfilled.

2. Any child transferring into the first grade of a public school from out-of-state and not meeting the requirements herein for kindergarten attendance, shall be required to satisfactorily pass an academic readiness screening administered by the LEA prior to the time of enrollment for the first grade.

3. Any child not able to meet the kindergarten attendance requirements of this Section due to illness or extraordinary, extenuating circumstances as determined by the local educational governing authority, shall be required to satisfactorily pass an academic readiness screening administered by the LEA prior to the time of enrollment for the first grade.

4. Every parent, tutor, or other person having control or charge of a child who is eligible to attend full-day kindergarten, as a prerequisite to enrollment in any first grade of a public school shall send such child to attend public or private full-day kindergarten when such instruction is offered in the public schools, or ensure that such child is administered an academic readiness screening prior to the time established for the child to enter first grade.

D. The age at which a child may enter the first grade of any public school at the beginning of the public school session shall be six years on or before September 30 of the calendar year in which the school year begins.

1. Any local educational governing authority in a parish having a population of at least 450,000 may adopt, by rule, and enforce ages for entrance into first grade in the schools in its system which vary from the provisions of this Section. All children admitted into school as a result of a

rule adopted pursuant to such a rule shall be counted in reports submitted for funding under the MFP and money allocated pursuant to such program shall be based on the report which includes such children.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:151.3 and R.S. 17:222.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1275 (June 2005), amended LR 39:

#### **§1115. Statements of Compliance**

A. Each LEA shall require each student in grades -12 in each school under the control of the LEA annually to sign a statement of compliance committing to do at least all of the following:

1. attend school daily, except when absent for reasons due to illness or other excused absence;
2. arrive at school on time each day;
3. demonstrate significant effort toward completing all required homework assignments; and
4. follow school and classroom rules.

B. Each parent or guardian of each student in grades 4-12 in any public school in the state annually shall sign a statement of compliance committing to do at least all of the following:

1. ensure that his/her child attends school daily except for excused absences;
2. ensure that his/her child arrives at school on time each day;
3. ensure that his/her child completes all required homework assignments; and
4. attend all required parent and teacher or principal conferences.

C. Prior to the signing by any student of the statement of compliance as required in this Section, each homeroom teacher or teacher designated by the principal shall, on the first day of school each school year, provide information to and answer any questions from students in grades 4-12 relative to the statement of compliance.

D. Each LEA shall adopt rules and regulations necessary for the implementation of this Section. Such rules and regulations shall include the following:

1. appropriate action to be taken against any student or parent or guardian who fails to comply with the signed statement as required in this Section; and
2. guidelines for homeroom teachers to provide information and answer questions about the compliance statements, including a specified amount of time necessary for teachers to accomplish such requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:235.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1276 (June 2005), amended LR 39:

#### **§1117. Child Welfare and Attendance**

A. Supervisors of child welfare and attendance and home-school coordinators shall give written notice, either in person or by registered mail, to the parent or guardian of a student within the compulsory school attendance age, when no valid reason is found for a student's nonenrollment or unexcused absence from school, requiring enrollment or attendance within three days from the date of notice.

B. Supervisors of child welfare and attendance shall receive the cooperation of all teachers and principals in the parish or city in which they are appointed to serve.

C. Each school shall, upon the request of the LEA where the school is located, state whether any individual student is enrolled in such school and whether such pupil is fulfilling the compulsory attendance requirements.

D. Any student who is a juvenile and who is habitually absent from school or is habitually tardy shall be reported by supervisors of child welfare and attendance to the family or juvenile court of the parish or city as a truant child, pursuant to the provisions of chapter 2 of title VII of the *Louisiana Children's Code* relative to families in need of services, there to be dealt with in such manner as the court may determine, either by placing the truant in a home or in a public or private institution where school may be provided for the child, or otherwise.

E. A student shall be considered habitually absent or habitually tardy when either condition continues to exist after all reasonable efforts by any school personnel, truancy officer, or other law enforcement personnel have failed to correct the condition after the fifth unexcused absence or fifth unexcused occurrence of being tardy within any school semester. The parent or legal guardian of a student shall enforce the attendance of the student at the school to which the student is assigned.

F. In those districts participating in an interagency agreement to operate a truancy and assessment service center and to the extent specified in said agreement, school boards and their systems in general will assist child welfare and attendance officers in creating student background data, including attendance records, unexcused absences, conduct violations, discipline records, report cards, and transcripts as permitted by law and families in need of services personnel will work in partnership with the child welfare and attendance officers to monitor client progress, file all petitions in the cases of noncompliance of the plan for court appearance, and coordinate other services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:232, R.S. 17:233, and R.S. 17:235.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1276 (June 2005), amended LR 34:608 (April 2008), LR 35:1475 (August 2009), LR 39:

#### **§1119. Health Screening**

NOTE: §1119 has been moved to *Bulletin 135—Health and Safety*, §301.

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17: 2112.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1276 (June 2005), repealed LR 39:

#### **§1121. Immunizations**

NOTE: §1121 has been moved to *Bulletin 135—Health and Safety*, §303.

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:170.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1277 (June 2005), amended LR 33:429 (March 2007), LR 35:1476 (August 2009), LR 35:2322 (November 2009), LR 37:2134 (July 2011), repealed LR 39:



### **§1123. Educational Screening and Evaluation**

A. All LEAs shall ensure that appropriate educational screening and evaluation services are provided to students.

B. Every student in public school in grades kindergarten-third shall be screened, at least once, for the existence of impediments to a successful school experience. No student shall be screened if his parent or guardian objects to such screening.

1. Such impediments shall include:

- a. dyslexia and related disorders;
- b. attention deficit disorder; and

c. social and environmental factors that put a student "at risk."

2. Students in need of services and/or assistance shall have it provided to them in accordance with R.S. 17:7(11).

3. The screenings shall be done directly by elementary school counselors, pupil appraisal personnel, teachers, or any other professional employees of the LEA who have been appropriately trained, all of whom shall operate as advocates for the students identified as needing services or assistance. No screenings shall be done by persons who have not been trained to do such screenings.

C. - F. ...

G. Re-evaluation of exceptional students shall occur at least every three years unless the parent and the public agency agree that a re-evaluation is not necessary.

NOTE: Refer to Bulletin 135—Health and Safety, §301.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11) and R.S. 17:392.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1277 (June 2005), amended LR 39:

### **§1124. Parental Involvement for Exceptional Students** **[Formerly §1903]**

A. Each LEA shall take whatever action is necessary to ensure parental participation as required by federal, state, and local guidelines in the development of the IEP for exceptional students.

B. Communication from the school to the parent shall be as follows:

1. written;
2. in language understandable to the general public;
3. in the native language of the parent or other mode of communication used by the parent when possible; and/or
4. communicated orally (when necessary) in the native language or other mode of communication so that the parent understands the content of such communication.

C. Full and effective notice communicated from the LEA to the parent of an exceptional student or a student thought to be exceptional shall also include the following:

1. a full explanation of all the procedural safeguards available to the parents, including confidentiality requirements;
2. a description of the proposed (or refused) action, an explanation of the reasons for such actions, and a description of any options that were considered and rejected;
3. a description of each evaluation procedure, type of test, record or report used as a basis for the action, and any other relevant factors; and
4. identification of the employee or employees of the school system who may be contacted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1287 (June 2005), amended LR 39:

### **§1127. Preventive Programs**

A. Preventive programs are those programs aimed at identifying and eliminating problems that impede student learning.

B. Each LEA shall have a program on the prevention of crime and disruptive behavior.

C. Each LEA may develop and implement, after submission to BESE for approval, a plan for the modification of approved course content and structure to produce interdisciplinary courses for purposes of enhancing dropout prevention programs.

D. Teachers, school counselors, principals and certain other school administrators in public elementary and secondary schools shall receive two hours of annual in-service training in suicide prevention.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:13.1, R.S. 17:283, and R.S. 17:403.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1278 (June 2005), amended LR 39:

### **§1129. Administration of Medication**

NOTE: §1129 has been moved to *Bulletin 135—Health and Safety*, §305.

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:436.1 and R.S. 17:436.1(J).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1278 (June 2005), amended LR 35:1476 (August 2009), LR 36:481 (March 2010), repealed LR 39:

### **§1131. Communicable Disease Control**

NOTE: §1131 has been moved to *Bulletin 135—Health and Safety*, §309.

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10)(15), R.S. 17:170, R.S. 17:437, R.S. 17:1941, and 20 USCS 1232.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1279 (June 2005), repealed LR 39:

### **§1137. Student Identification Badges**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:179.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1282 (June 2005), repealed LR 39:

### **§1141. Electronic Telecommunication Devices**

A. - B. ...

C. Each LEA shall develop, adopt, and implement policies, procedures and practices applicable to school employees relative to electronic communications by an employee at a school to a student enrolled at that school.

1. The policies, procedures, and practices shall:

a. define electronic communication and recognize the multiple means available for making such a communication, including specified forms of both direct communication and indirect communication;

b. require that all electronic communication by an employee to a student relative to the educational services provided use a means of communication provided by the LEA;



c. prohibit the use of the means of provided by the LEA to electronically communicate with a student that is not related to the education services provided, except communication with an immediate family member if such communication is specifically authorized by the LEA;

d. specify that the occurrence of any electronic communication made by an employee to a student, or vice versa, using a means other than one provided by the LEA shall be reported by the employee;

i. provides that records of any such reported communication be maintained by the LEA for one year;

e. specify that it is a duty of LEA employees to comply with the policies and provide that a failure to comply may result in disciplinary action and may constitute willful neglect of duty;

f. establish and provide for the imposition of consequences for a violation of the policies, including but not limited to termination of employment;

g. provide a means for the timely reporting and investigation of an alleged failure to comply with policies and for concluding such an investigation and resolving the allegation;

h. provide a means whereby any alleged failure to comply with the policies that also may be a violation of state or federal law is reported to the proper authorities;

i. provide a means to assure that all LEA employees are informed fully of the policies, procedures, and practices, and the possible consequences for a failure to comply;

j. provide a means to assure that a parent or guardian is fully informed of the policies, procedures, and practices;

k. provide a means for a parent or guardian to request that the child not be contacted through electronic communication by any school employee unless the purpose of such communication is directly related to the child's educational services and is sent and received by more than one student at the school; and

l. authorize a school principal or designee to permit an employee to contact one or more specifically identified students and be contacted by such students using a means other than one provided by the school provided the employee has requested and received permission from the principal or designee to do so and has provided documentation in writing to the principal or designee the purpose for such contact.

i. Such purposes may include, but need not be limited to:

- (a). necessary communications relative to extracurricular activities;
- (b). student athletic activities;
- (c). community-based youth activities; and
- (d). faith-based activities.

2. No school board or board member shall be civilly liable for any electronic communication that is prohibited by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:81 and R.S. 17:239

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1282 (June 2005), amended LR 37:1134 (April 2011), LR 39:

#### **§1145. School Health Forms**

NOTE: §1145 has been moved to *Bulletin 135—Health and Safety*, §311.

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.12, 20 USCS 6301 et seq., and 20 USCS 1232.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:2606 (December 2007), repealed LR 39:

#### **§1147. Non-Complex Health Procedures**

NOTE: §1147 has been moved to *Bulletin 135—Health and Safety*, §313.

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:436(A)(2) and (E).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:482 (March 2010), repealed LR 39:

#### **§1149. Student Biometric Information**

A. *Biometric Information*—any noninvasive electronic measurement and evaluation of any physical characteristics that are attributable to a single person, including:

1. fingerprint characteristics;
2. eye characteristics;
3. hand characteristics;
4. vocal characteristics;
5. facial characteristics; and
6. any other physical characteristics used to

electronically identify that person with a high degree of certainty.

B. Any LEA that collects such information shall develop, adopt, and implement policies that govern the collection and use of such information that, at a minimum shall:

1. require written permission from the student's parent or other legal guardian, or the student if he or she is age 18 or older, prior to the collection of any biometric information. It requires a form created for the express purpose of obtaining the required permission and requires that the granting of permission shall not be included as a part of any form used for enrollment purposes or other form required by the school's governing authority for any other purpose;

2. provide that any biometric information collected from a student shall be used only for identification or fraud prevention purposes;

3. ensure that a student's biometric information shall not be disclosed to a third party without the written permission of the student's parent or other legal guardian, or the student if he or she is age 18 or older, unless the disclosure is required by court order;

4. provide for the secure storage, transmission, and protection of all biometric information from unauthorized disclosure;

5. encrypt student biometric information using an algorithmic process which transforms data into a form in which there is a low probability of assigning meaning to such information without use of a confidential process or key;

6. ensure that the use of a student's biometric information is discontinued upon:

a. the student's graduation or withdrawal from school; or

b. receipt of a written request to discontinue use of such information from the student's parent or other legal guardian, or the student if he or she is age 18 or older;

7. provide that all biometric information collected from a student be destroyed within 30 days after use of such information is discontinued;

8. provide that a student shall not be refused or denied any services due to the failure to provide written consent and that the collection of student biometric information must comply with all applicable state and federal law and requirements, including the federal Family Educational Rights Privacy Act of 1974 (FERPA).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.8.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:1139 (April 2011), amended LR 39:

### **Chapter 13. Discipline**

#### **§1301. Disciplinary Regulations**

A. - F. ...

G. Students who are removed from the classroom for disruptive, dangerous, or unruly behavior or who are suspended for ten days or less shall be assigned school work missed and shall receive either full or partial credit for such work if it is completed satisfactorily and timely as determined by the principal or designee, upon the recommendation of the student's teacher. A student who is suspended for more than ten days or is expelled and receives educational services in an alternative school site, shall be assigned school work by a certified teacher and shall receive credit for school work if it is completed satisfactorily and timely as determined by the teacher. Such work shall be aligned with the curriculum used at the school from which the student was suspended or expelled.

1. The number of school days a student may be suspended shall not exceed the number of school days remaining in the school year.

H. - K.4.f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:223-224, R.S. 17:416, and 17:416.13.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1282 (June 2005), amended LR 36:1225 (June 2010), LR 37:1132, 1133 (April 2011), LR 39:

#### **§1302. Classroom Management Training for School Staff**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:252

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:1380 (May 2011), repealed LR 39:

#### **§1303. Reasons for Suspension**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:416.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1283 (June 2005), repealed, LR 39:

#### **§1304. Classroom Management Training for School Staff**

**[Formerly §1302]**

A. The school master plans for improving behavior and discipline required of LEAs shall make provision for pre-service and ongoing grade-appropriate classroom management training for teachers, principals, and other appropriate school personnel regarding positive behavioral supports and reinforcement, conflict resolution, mediation, cultural competence, restorative practices, guidance and discipline, and adolescent development.

B. LEAs shall provide ongoing classroom management courses and regularly review discipline data from each school to determine what additional classroom management training is needed, if any, and what additional classroom support activities should be provided by the principal and school administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:252.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:1380 (May 2011), amended LR 39:

#### **§1305. Reasons for Suspension**

**[Formerly §1303]**

A. School principals may suspend from school any student, including an exceptional student, for good cause in accordance with state law and local policy.

B. Students determined to be guilty of the following offenses may be suspended for the following reasons:

1. willful disobedience;
2. disrespect to a teacher, principal, superintendent, and/or member or employee of the local school board;
3. making an unfounded charge against a teacher, principal, superintendent, and/or member or employee of the local school board;
4. using unchaste or profane language;
5. immoral or vicious practices;
6. conduct or habits injurious to his/her associates;
7. using tobacco and/or using and possessing alcoholic beverages or any controlled dangerous substances governed by the Uniformed Controlled Dangerous Substance Law in any form in school buildings or on school grounds;
8. disturbing the school and habitually violating the rules;
9. cutting, defacing, or injuring any part of public school buildings;
10. writing profane or obscene language or drawing obscene pictures in or on any public school premises, or on any fence, sidewalk, or building on the way to or from school;
11. possessing firearms, knives, or other implements that can be used as weapons;
12. throwing missiles on the school grounds;
13. instigating or participating in fights while under school supervision;
14. violating traffic and safety regulations;
15. leaving the school premises without permission or his/her classroom or detention room without permission;
16. habitual tardiness or absenteeism; and
17. committing any other serious offense.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:416.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1283 (June 2005), amended LR 39:

**§1306. Due Process for Suspensions**  
**[Formerly §1305]**

A. Prior to any suspension, the school principal or the principal's designee shall advise the student in question of the particular misconduct of which he or she is accused as well as the basis for such accusation, and the student shall be given an opportunity at that time to explain his or her version of the facts to the school principal or his or her designee.

B. The principal, or the principal's designee, shall contact by telephone at the telephone number shown on the pupil's registration card or send a certified letter at the address shown on the pupil's registration card to the parent or guardian of the student, giving notice of the suspension, the reasons therefore and establishing a date and time for a conference with the principal or his designee as a requirement for readmitting the student.

1. If the parent or guardian fails to attend the required conference within five school days of mailing the certified letter or other contact with the parent, the truancy laws shall become effective.

2. On not more than one occasion each school year when the parent or guardian refuses to respond, the principal may determine whether readmitting the student is in the best interest of the student.

3. On any subsequent occasions in the same year, the student shall not be readmitted unless the parent, guardian, or other appointed representative responds.

C. A student whose presence in or about a school poses a continued danger to any person or property or an ongoing threat of disruption to the academic process shall be immediately removed from the school premises without the benefit of the procedure described above; however, the necessary procedure shall follow as soon as is practicable.

D. Notice in writing of the suspension and the reasons thereof shall be given to the parent or parents of the suspended student.

E. Any parent, tutor, or legal guardian of a suspended student shall have the right to appeal to the superintendent or to a designee of the superintendent, who shall conduct a hearing on the merits of the case.

F. In all cases of suspensions, the parent, the superintendent of schools, and/or supervisor of child welfare and attendance or designee shall be notified in writing of the facts concerning each suspension, including the reasons therefore and terms thereof.

G. The decision of the superintendent on the merit of the case, as well as the term of suspension, shall be final, reserving the right to the superintendent to remit any portion of the time of suspension.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:416.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1283 (June 2005), amended LR 39:

**§1307. Reasons for Expulsions**

A. Students may be expelled for any of the following reasons:

1. any student, after being suspended for committing any of the offenses listed in §1103, may be expelled upon recommendation by the principal of the public school in which the student is enrolled;

2. any student, after being suspended on three occasions for committing drugs or weapons offenses during the same school session, shall, on committing the fourth offense, be expelled from all the public schools of the parish or city school system wherein he or she resides until the beginning of the next regular school year, subject to the review and approval of the local educational governing authority;

3. the conviction of any student of a felony or the incarceration of any student in a juvenile institution for an act which, had it been committed by an adult, would have constituted a felony, may be cause for expulsion of the student for a period of time as determined by the board; such expulsions shall require the vote of two thirds of the elected members of the local educational governing authority;

4. any student found guilty of being in possession of a firearm on school property or on a school bus or at a school sponsored event shall be expelled from school according to the requirements of R.S. 17:416(C)(2);

5. any student in grades six and up found guilty of being in possession of any illegal narcotic, drug, or other controlled substance on school property, on a school bus, or at a school event shall be expelled from school according to the requirements of R.S. 17:416(C)(2).

6. any student older than eleven and in grades six and up, carrying or possessing a knife the blade of which equals or exceeds two inches in length.

B. School officials shall have total discretion and shall exercise such discretion in imposing on a pupil any disciplinary actions authorized by this Section for possession by a student of a firearm or knife on school property when such firearm or knife is stored in a motor vehicle and there is no evidence of the student's intent to use the firearm or knife in a criminal manner.

C. Expulsion is not mandatory for a student carrying or possessing a firearm or knife for purposes of involvement in a school class or course or school-approved cocurricular or extracurricular activity or any other activity approved by the appropriate school officials or for a student possessing any controlled dangerous substance governed by the Uniform Controlled Dangerous Substances Law that has been obtained directly or pursuant to a valid prescription or order from a licensed physician. However, such student shall carry evidence of that prescription or physician's order on his person at all times when in possession of any controlled dangerous substance which shall be subject to verification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:416.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1284 (June 2005), amended LR 34:608 (April 2008), LR 39:

**§1313. Discipline for Students with Disabilities**

A. If a school district removes a student with a disability from the student's current educational placement for 10 school days in a school year, consecutively or cumulatively, regardless of the circumstances, beginning on the eleventh day, students must continue to receive educational services to enable the student to continue participating in the general

education curriculum, to progress toward meeting the goals set out in the IEP, and to receive behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

NOTE: Refer to *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1284 (June 2005), amended LR 39:

### **§1315. Corporal Punishment**

A. Each LEA shall have discretion in the use of corporal punishment. In those cases in which an LEA decides to use corporal punishment, the LEA shall adopt such rules and regulations as it deems necessary to implement and control any form of corporal punishment in the schools under its jurisdiction.

B. Each LEA shall adopt a policy establishing procedures for the investigation of employees accused of impermissible corporal punishment.

C. Each LEA shall collect and report corporal punishment data according to procedures established by the LDE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:81.6, R.S. 17:223, and R.S. 17:416.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1284 (June 2005), amended LR 39:

### **§1317. Search and Seizure**

A. Any teacher, principal, school security guard, or administrator may search any building, desk, locker, area, or school grounds for evidence that the law, a school rule, or parish or city school board policy has been violated.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:416.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1285 (June 2005), amended LR 39:

## **Chapter 17. Instructional Support**

### **§1703. Textbooks**

A. Each school shall provide instructional materials for each student and shall have proper procedures for selection, storage, and preservation of such materials.

B. State funds appropriated through the MFP may be used to buy books on the state-adopted textbook lists and academically related ancillary materials or computer hardware according to the state guidelines.

1. The annual appropriation for the purchase of instructional materials and supplies (state-approved textbooks) is defined in the MFP appropriation bill on a per-pupil amount. In order to facilitate the purchase and receipt of these textbooks each year, LEAs are required to submit state textbook orders to the publisher's depository, centrally located within the state, between March 15 and May 15.

2. LEAs may use state MFP dollars for the purchase of non-adopted instructional materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:8 and R.S. 17:351 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1286 (June 2005), amended LR 37:1141 (April 2011), LR 38:2365 (September 2012), LR 39:

## **Chapter 19. Community Relations**

### **§1901. School-Community Relations Program**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:251 and R.S. 17:406.1 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1287 (June 2005), repealed LR 39:

### **§1903. Parental Involvement**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with; R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1287 (June 2005), repealed LR 39:

## **Chapter 21. Support Services**

### **§2101. Transportation**

A. The transportation program shall be safe, adequate, and suitable to the needs of the students and the community served while complying with the standards of the LDE. Refer to *Bulletin 119—Louisiana School Transportation Specifications and Procedures*, and applicable laws.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1287 (June 2005), amended LR 39:

### **§2103. School Food Service**

A. A recognized school of high school grade or under shall be eligible to participate in the school food service programs administered by the LDE, provided that requirements set forth in the agreements with the local educational governing authority are met.

B. Reimbursement shall be made only to schools operating under an agreement between the LEA or other governing authority and the LDE.

1. Agreements shall be signed by the designated representative of each LEA or other governing authority.

C. Participating schools shall adhere to the conditions of the agreement and all applicable federal and state laws and United States Department of Agriculture (USDA) regulations and policies governing the USDA Child Nutrition Programs under the LDE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:82 and R.S. 17:191 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1287 (June 2005), amended LR 38:3135 (December 2012), LR 39:

## **Chapter 23. Curriculum and Instruction**

### **Subchapter A. Standards and Curricula**

#### **§2301. Standards and Curricula**

A. Each LEA will provide instruction aligned to BESE-approved standards.

B. The Louisiana content standards shall be subject to review and revision to maintain rigor and high expectations for teaching and learning. Such review of each content area shall occur at least once every seven years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1288 (June 2005), amended LR 31:3070 (December 2005), LR 33:429 (March 2007), LR 39:

## **§2302. Uniform Grading Policy**

A. LEAs shall use the following uniform grading system for students enrolled in all grades K-12 for which letter grades are used.

Grading Scale for Regular Courses	
Grade	Percentage
A	100-93
B	92-85
C	84-75
D	74-67
F	66-0

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(31)(A).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2390 (August 2011), amended LR 39:

## **§2303. Planning and Instruction**

A. Course content shall meet state and local guidelines relative to unbiased treatment of race, sex, roles, religions, ethnic origins, and political beliefs.

B. Each school's instructional program shall be characterized by well-defined instructional objectives and systematic planning by teachers.

C. Planning by teachers for content, classroom instruction, and local assessment shall reflect the state's content standards.

D. The instructional program shall reflect the selection and use of varied types of learning materials and experiences, and the adaptation of organizational and instructional procedures to provide for individual student needs.

E. The instructional program shall reflect the use of varied evaluative instruments and procedures.

F. Teaching strategies and techniques shall be adjusted to accommodate the types of learners served and their individual learning styles.

G. Each school's educational program shall provide for individual differences of students.

H. Assessment of student performance shall be conducted in each course or instructional level, and mastery of concepts and skills shall be verified.

AUTHORITY NOTE: Promulgated in accordance with Louisiana Constitution Art. VIII Preamble and R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1288 (June 2005), amended LR 39:

## **§2304. Science Education**

A. BESE shall, upon request of an LEA, allow and assist teachers and school administrators to create and foster an environment that promotes critical thinking skills, logical analysis, and open and objective discussion of concepts, laws, principles, and scientific theories.

1. Such assistance shall include support and guidance for teachers regarding effective ways to understand, analyze, critique, and objectively review concepts, laws, principles, and scientific theories.

2. Any LEA may request such assistance by contacting the LDE.

B. Teachers shall teach the state-approved science standards, and the standard textbook supplied by the LEA.

1. The teacher may then use supplemental textbooks and other instructional materials as permitted by the LEA unless otherwise prohibited by BESE.

C. Classroom instruction and materials shall not promote any religious doctrine, promote discrimination for or against a particular set of religious beliefs, or promote discrimination for or against religion or non-religion.

D. BESE shall determine which supplemental materials shall be prohibited from use in science classes in public schools according to the procedure below.

1. Any Louisiana citizen may challenge materials used by an LEA by submitting a complaint to the LDE for consideration by BESE. The complaint should contain the reasons for the challenge and cite evidence to substantiate the challenge.

2. The LDE will notify the LEA using the supplementary material that the complaint has been filed.

3. The LDE will conduct a meeting allowing the complainant, the LEA, and any interested parties adequate time to present their arguments and information and to offer rebuttals.

4. The LDE will make a recommendation to BESE based on the following criteria.

a. The supplemental materials must be grade-level appropriate.

b. The information contained in the supplemental materials must be scientifically sound and supported by empirical evidence.

c. The materials shall not promote any religious doctrine, promote discrimination for or against a particular set of religious beliefs, or promote discrimination for or against religion or non-religion.

E. The following procedure shall be followed for complaints filed about supplemental materials used in a science classroom.

1. Any Louisiana citizen may challenge materials used by an LEA by submitting a complaint to the LDE for consideration by BESE. The complaint should contain the reasons for the challenge and cite evidence to substantiate the challenge. The complaint should be sent to the director of curriculum standards.

2. The LDE will notify the LEA using the supplementary material that the complaint has been filed and will provide the LEA with a copy of the complaint. The LDE will request from the LEA a copy of the supplementary materials in question.

3. The LDE shall have the opportunity to appoint two reviewers of the materials. The challenger, the LEA, and the publisher (if any) shall each have the opportunity to appoint one reviewer of the materials. The LDE will provide the reviewers with copies of the supplementary materials and the complaint. The reviewers should be experts who are capable of determining if the materials are grade-level appropriate, if the materials are scientifically sound and supported by empirical evidence, and if the materials do not promote any religious doctrine, promote discrimination for or against a particular set of religious beliefs, or promote discrimination for or against religion or non-religion.

4. The LDE will determine a time and location for a meeting. The LDE will notify the LEA, the complainant, and the reviewers of the date, time, and location. The LEA and the complainant may bring others with them to the meeting.

5. At the meeting, the LEA and the complainant and/or the representatives of each side will explain their positions. The reviewers may ask questions. All reviewers will complete a form indicating that the materials do or do not violate each of the following provisions and include explanations for their recommendations.

a. The supplementary materials are grade-level appropriate.

b. The information contained in the supplementary materials are scientifically sound and supported by empirical evidence.

c. The materials shall not promote any religious doctrine, promote discrimination for or against a particular set of religious beliefs, or promote discrimination for or against religion or non-religion.

6. The LDE will forward the reports of the reviewers to BESE. The LDE may elect to make its own recommendation. The LDE will notify the challenger, the LEA, and the publisher of the date and time when the recommendations will be presented to BESE for consideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:285.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:1476 (August 2009), amended LR 36:483 (March 2010), LR 39:

#### **§2305. Ancillary Areas of Instruction**

A. Each LEA may develop a character education philosophy and implementation plan consistent with its locally developed curriculum.

B. - E. ...

F. Each LEA shall include in the curriculum a program of substance abuse prevention, to include informational, effective, and counseling strategies, and information designed to reduce the likelihood that students shall injure themselves or others through the misuse and abuse of chemical substances.

1. The substance abuse programs and curricula shall also include procedures for identifying students who exhibit signs of misuse or abuse of such substances and procedures for referral for counseling or treatment.

2. Elementary schools shall provide a minimum of 16 contact hours of substance abuse prevention education each school year. Instruction shall be provided within a comprehensive school health program.

3. Secondary schools shall provide a minimum of 8 contact hours of substance abuse prevention education each school year for grades 10-12 and 16 hours for grade 9. Instruction shall be provided within a comprehensive school health program.

4. The substance abuse programs and curricula shall also include procedures for identifying students who exhibit signs of misuse or abuse of such substances and procedures for referral for counseling or treatment.

G. Each school shall hold an educational program pertaining to the United States Constitution on Constitution Day, September 17, of each year. The purpose of the program is to commemorate the September 17, 1787 signing of the Constitution. When September 17 falls on a Saturday, Sunday, or holiday, the Constitution Day program shall be held during the preceding or following week.

H. Each LEA shall provide age- and grade-appropriate classroom instruction regarding internet and cell phone safety.

1. The LDE will identify and list appropriate resources on the LDE website.

2. The instruction shall be integrated into an existing course and shall include but not be limited to the following topics:

a. the safe and responsible use of social networking websites, chat rooms, electronic mail, bulletin boards, instant messaging, and other means of electronic communication;

b. risks of transmitting personal information;

c. recognizing, avoiding, and reporting solicitations by sexual predators;

d. recognizing and reporting illegal activities and communications;

e. recognizing and reporting harassment and cyberbullying;

f. recognizing and avoiding unsolicited or deceptive communications; and

g. copyright laws on written materials, photographs, music, and video.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:154, R.S. 17:261 et seq., R.S. 17:280, R.S. 17:281 et seq., R.S.17:404, R.S. 17:405 et seq., and 36 USCS §106.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1288 (June 2005), amended LR 33:2353 (November 2007), LR 39:

#### **§2307. Literacy Screening**

A. Each LEA shall require that every child enrolled in kindergarten-third grade be given a BESE-approved literacy screening. The results of this screening shall be used to plan instruction and provide appropriate and timely intervention. The results of the screening will also provide information required by R.S. 17:182, student reading skills; requirements; reports.

1. For students with significant hearing or visual impairment, nonverbal students, or students with significant cognitive impairment, the LEA shall provide an alternate assessment recommended by the LDE.

2. Each LEA shall report to the LDE screening results by child within the timeframes and according to the guidance established by the LDE.

3. For grades 1-3, the school should use the prior year's latest screening level to begin appropriate intervention until the new screening level is determined.

4. Screening should be used to guide instruction and intervention.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1289 (June 2005), amended LR 38:1224 (May 2012), LR 39:

#### **§2309. Curriculum for Exceptional Students**

A. Schools and LEAs shall require the development of an IEP including educational placement for each student determined to be exceptional and in need of special education and related services.

B. Each school and LEA shall include on each IEP all special education and related services necessary to accomplish comparability of educational opportunity

between exceptional students and students who are not exceptional.

C. Special education students shall be allowed to earn Carnegie units when possible.

1. The Carnegie units shall be granted by regular or special education teachers certified in the subject matter areas which they are teaching.

NOTE: Refer to *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act* and *Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1289 (June 2005), amended LR 39:

### **§2313. Elementary Program of Studies**

A. Elementary schools shall adhere to the curricular and time requirements established by the LDE and approved by BESE.

B. Schools and LEAs providing prekindergarten programs shall offer a curriculum that is developmentally appropriate and informal in nature with a balance of both teacher-directed and student-initiated activities.

NOTE: Refer to *Bulletin 105—Louisiana Content Standards for Programs Serving Four-Year-Old Children*.

1. Prekindergarten programs for exceptional students shall offer a curriculum:

- a. that is developmentally sequenced based on reliable research;
- b. that offers a plan for continuous evaluation; and
- c. that offers balanced experiences in pre-academic/academic skills, communication skills, social-emotional skills, self-help skills and motor skills, in accordance with an IEP.

C. The kindergarten shall be informal in nature with teacher-directed and student-initiated activities; it shall be planned to meet the developmental needs of young students.

D. Elementary Minimum Time Requirements

1. The elementary grades shall provide a foundation in fundamentals of the language arts, mathematics, social studies, science, health, physical education, and cultural arts.

2. Each grade level, grades one through eight, shall provide instruction aligned to state-approved standards.

3. Elementary schools shall offer an articulated foreign language program for 30 minutes daily in grades four-six, and 150 minutes per week in grades seven and eight.

NOTE: Refer to a guide for administrators of elementary level second language and immersion programs in Louisiana schools on the LDE website.

a. If an LEA does not have a program for foreign language instruction in grades 1-12, a program shall be required upon presentation of a petition requesting the instruction of a particular foreign language. The superintendent of the LEA shall determine the required number of signatures needed.

b. For identified special education students, the IEP committee shall determine the student's eligibility to receive foreign language instruction.

E. Each public elementary school that includes any of the grades kindergarten-eight shall provide at least 30 minutes of quality, moderate to vigorous, organized physical activity each day for all students.

1. The LEA shall report to the LDE on compliance no later than October 1.

F. Each public elementary school shall provide 60 minutes of instruction in the performing arts and 60 minutes of instruction in the visual arts each school week for students in kindergarten-grade eight.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(26), R.S. 17:17.1, R.S. 17: 24.8, R.S. 17:81, R.S. 17:154-154.1, and R.S. 17:261 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1289 (June 2005), amended LR 33:2353 (November 2007), LR 36:1225 (June 2010), LR 37:1135 (April 2011), LR 39:

### **§2314. Carnegie Credit and Credit Flexibility**

A. LEAs may permit students to earn Carnegie credit as middle school and high school students in two ways:

1. by passing a course in which the student is enrolled and meeting instructional time requirements, as set forth below; or

2. by demonstrating proficiency as set forth below.

B. When awarding credit based on instructional time, LEAs shall require a minimum of 7,965 minutes for one Carnegie credit. In order to grant one-half Carnegie credit, LEAs shall require a minimum of 3,983 minutes.

C. When awarding Carnegie credit based on demonstrated proficiency, LEAs must inform the LDE of the following on behalf of any student or group of students:

1. the name of the examination used to measure proficiency, if nationally recognized, or

2. a copy of the examination used to measure proficiency, if locally developed or not nationally recognized and the score required to demonstrate proficiency; or

3. a listing of requirements to demonstrate proficiency through portfolio submissions.

D. Proficiency in a course with a state-administered end-of-course exam must be demonstrated using the end-of-course exam.

E. The LDE may require revisions of assessments in order to ensure that they adequately measure proficiency.

F. Students meeting the requirements for Carnegie credit based on proficiency shall have the course title, the year proficiency was demonstrated, P (pass) and the unit of credit earned entered on their transcript.

1. LEAs shall determine whether to award the letter grade earned on the proficiency assessment(s) or a P (pass) when a student demonstrates proficiency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:154.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:

### **§2315. Adding Electives to the Program of Studies-Middle and Secondary**

A. An LEA shall develop a process for approving elective courses. This process shall ensure alignment with the standards-based initiatives, compliance with current BESE policy, and all laws and regulations pertaining to students with disabilities.

1. Electives shall enhance, expand, and/or refine the core curriculum. Elective courses shall not replace, duplicate, or significantly overlap the content of core curriculum or other approved electives.

2. Electives shall meet specific curricular goals of the districts.



3. Electives shall include challenging content that require students to extend the knowledge and skills acquired through the core curriculum.

4. Electives shall provide a variety of activities and hands-on learning experiences that accommodate different learning styles.

5. Electives shall include appropriate accommodations for addressing specific instructional and assessment needs of students with disabilities, students who are linguistically and/or culturally diverse, and students who are gifted and talented.

6. Electives shall incorporate assessment strategies that support statewide assessments.

B. Each LEA shall maintain records of all approved electives.

C. LDE reserves the authority to require LEAs to submit documentation regarding the course content, approval process and/or course evaluation of any approved elective.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:281 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 39:

### **§2317. High Schools**

A. - E. ...

F. Each LEA shall develop an early graduation program allowing students to accelerate their academic progress, complete all state graduation requirements, and receive a high school diploma in less than four years.

1. The early graduation program may include distance education (§2326), dual enrollment (§2327), and Carnegie credit earned in middle school.

2. LEAs shall not have any policies or requirements that would prevent students from graduating in less than four years.

G. - J.4 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:154, R.S. 17:1944, and R.S. 17:1945.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 36:1485 (July 2010), LR 37:1137 (April 2011), LR 38:754 (March 2012), LR 39:

### **§2321. Carnegie Credit for Middle School Students**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1293 (June 2005), amended LR 33:430 (March 2007), LR 33:2601 (December 2007), LR 34:609 (April 2008), LR 34:2031 (October 2008), LR 35:443 (March 2009), LR 35:2319 (November 2009), repromulgated LR 36:59 (January 2010), amended LR 36:2260 (October 2010), LR 37:2129 (July 2011), LR 37:3199 (November 2011), repealed LR 39:

### **§2323. Proficiency Examinations**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, and R.S. 17:391.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1294 (June 2005), amended LR 33:2351 (November 2007), repealed LR 39:

### **§2324. Credit Recovery**

A. Credit recovery refers to instructional programs for students who have failed courses taken previously.

B. LEAs may develop credit recovery programs which are self-paced and competency-based.

1. Students earning Carnegie credit in a credit recovery course must have previously taken and failed the course.

2. Students shall not be required to meet attendance requirements in §1103.F for credit recovery courses, provided students have met attendance requirements when they took the course previously or the students' combined attendance during the previous course and the credit recovery course meet the attendance requirements.

3. Credit recovery courses must be aligned with the state's content standards.

4. Credit recovery courses taught in a classroom setting using computer software programs designed for credit recovery must be facilitated by a certified teacher.

a. Additional instruction to cover standards and grade-level expectations not included in the software programs shall be provided by a teacher properly certified in the content area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:2352 (November 2007), amended LR 39:

### **§2325. Advanced Placement and International Baccalaureate**

A. Each high school shall provide students access to advanced placement (AP) or international baccalaureate (IB) courses according to the schedule below:

1. at least one AP or IB course in each of two core content areas during the 2012-2013 school year;

2. at least one AP or IB course in each of three core content areas during the 2013-2014 school year;

3. at least one AP or IB course in each of four core content areas during the 2014-2015 school year;

4. at least one AP or IB course in each of four core content areas and one additional AP or IB course during the 2015-2016 school year.

B. High school credit shall be granted to a student successfully completing an AP course or an IB course, regardless of his test score on the examination provided by the college Board or on the IB exam.

1. Procedures established by the college board must be followed.

2. Courses listed in the program of studies may be designated as advanced placement courses on the student's transcript by following procedures established by the LDE.

a. The chart below lists the college board AP course titles, the IB course titles, and the corresponding Louisiana course titles for which these courses can be substituted.

College Board AP Course Title(s)	IB Course Title	Louisiana Course Title
Art History		AP Art History
Biology	Biology II IB	Biology II or Biology I
	Biology III IB	Biology Elective
Calculus AB	Math Methods II IB	Calculus
Calculus BC		AP Calculus BC
Chemistry		Chemistry II or Chemistry I
Computer Science A		AP Computer Science A



College Board AP Course Title(s)	IB Course Title	Louisiana Course Title
Economics: Macro	Economics IB	Economics
Economics: Micro		AP Economics: Micro
Chinese Language and Culture		Chinese IV
English Language and Composition	English III IB	English III
English Literature and Composition	English IV IB	English IV
Environmental Science	Environmental Systems IB	Environmental Science
European History		AP European History
French Language	French IV IB	French IV
	Film Study I IB	Visual Arts Elective
	Film Study II IB	Visual Arts Elective
	French V IB	French V
German Language		German IV
Government and Politics: Comparative		AP Government and Politics: Comparative
Government and Politics: United States		AP Government and Politics: United States (substitute for Civics)
Human Geography	World Geography IB	World Geography or AP Human Geography
	Informational Technology IB	Computer Systems/Networking I
Italian Language and Culture		Italian IV
Japanese Language and Culture		Japanese IV
Latin Literature		Latin IV
	Math Methods I IB	Pre-Calculus
	Music I IB	Music Theory I
Music Theory	Music II IB	Music Theory II
Physics B	Physics I IB	Physics
Physics C: Electricity and Magnetism		AP Physics C: Electricity and Magnetism
Physics C: Mechanics		AP Physics C: Mechanics
	Physics II IB	Physics II
Psychology		Psychology
Spanish Language	Spanish IV IB	Spanish IV
	Spanish V IB	Spanish V
Statistics		Probability and Statistics
Studio Art: 2-D Design	Art/Design IV IB	Art IV
Studio Art: 3-D Design		AP Studio Art 3-D Design
Studio Art: Drawing	Art Design III IB	Art III
	Theory of Knowledge I IB	Social Studies Elective
	Theory of Knowledge IB	Social Studies Elective
U.S. History	U.S. History IB	U.S. History
World History		World History
	World History IB	Western Civilization

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1294 (June 2005), amended LR 34:2032 (October 2008), LR 37:3198 (November 2011), LR 38:759 (March 2012), LR 38:1584 (July 2012), LR 38:2363 (September 2012), LR 39:

## §2326. Distance Education [Formerly §2395]

A. An LEA choosing to implement a distance education program shall establish policy and procedures for reviewing and approving programs that meet the following standards for distance education as established by BESE.

1. Local distance education programs shall support the state content standards initiatives.

a. Distance education programs shall support the mission of the standards-based initiatives, i.e., "to develop rigorous and challenging standards that will enable all Louisiana students to become lifelong learners and productive citizens for the 21st century."

b. Distance education courses shall incorporate the foundation skills of the state content standards (communication, problem solving, resource access and utilization, linking and generating knowledge, and citizenship).

2. Distance education shall comply with all policies set forth by BESE as stated in current *Bulletin 741—Louisiana Handbook for School Administrators* with the exception of §907, Secondary—Class Times and Carnegie Credit.

a. Students can earn Carnegie credit by successfully completing all course requirements for distance education courses authorized by the LEA according to the policies in this Section.

3. The receiving LEA or school and the provider shall meet the following requirements related to the development of a standards-based distance education program. A *receiving LEA or school* is defined as any LEA or school that has students enrolled in courses via distance education. A provider could be an LEA, school, agency or educational organization.

a. The receiving LEA shall authorize each distance education course and ensure that the rigor and breadth meets state curriculum content standards.

b. The receiving LEA shall ensure that instruction is provided by teachers certified in the course/subject in which they are teaching with training in the delivery method, including appropriate media and pedagogy.

c. The receiving LEA shall verify that college and university advanced placement and/or college dual enrollment course instructional staff not holding Louisiana state teacher credentials are validated as subject matter experts by the providing institution.

d. The receiving LEA or school shall ensure that all students enrolled in a distance learning course are provided with the necessary course materials and technical support.

e. The receiving LEA shall evaluate the effectiveness of each authorized distance education course based on course completion rates and student achievement.

f. The provider shall define minimum prerequisite technology competencies for student participation in distance education courses if such competencies are required for course access.

g. The provider shall also make available to the student an orientation to the course delivery method prior to or at the start of the course.

h. The provider shall ensure that teachers delivering instruction in distance education courses use a variety of methods to assess the mastery of the content as reflected in the Louisiana content standards and aligned with common core state standards where applicable.

i. The provider shall provide to the receiving LEA a complete syllabus and a list of required materials prior to course implementation.

j. The provider shall ensure that all course content complies with copyright fair use laws, including The Technology, Education, and Copyright Harmonization Act (TEACH Act).

k. Online course providers shall ensure access to the courses' web content by using non-proprietary technologies (HTML).

l. LEAs and course providers shall make courses available to all students by complying with web accessibility guidelines and standards (W3C, section 508, and Louisiana and institutional guidelines) to the maximum extent reasonably possible.

m. The provider shall supply course content that is designed to meet the following criteria:

i. based on current perspectives of learning theories and curriculum standards;

ii. systematic in design, clearly written and revised based on student performance and feedback;

iii. uses appropriate presentation methods, media and pedagogy;

iv. engages students in a variety of learning activities based on various learning styles;

v. accommodates individual differences, including student disabilities; and

vi. encourages student-to-teacher and student-to-student interaction.

4. The receiving LEA or school and the provider shall meet the following requirements for management and administration.

a. The receiving LEA shall award credit and grades for distanced education courses assigned by the distance education provider and instructor with no deviations.

b. The receiving LEA or school shall ensure that a facilitator who is a Louisiana licensed teacher or LEA employed paraprofessional is assigned to and is actively engaged with each student participating in distance education courses.

c. The receiving LEA or school shall ensure that the facilitator adheres to guidelines determined by the provider and the policies in this Section.

d. The receiving LEA or school shall provide adequate, timely, and appropriate technical support to students, teachers, and facilitators.

e. The receiving LEA shall ensure that the facilitators are provided ongoing staff development appropriate to the delivery method used, supporting distance education courses technically and instructionally.

f. The receiving LEA shall ensure that students have appropriate, equitable, and adequate access for course participation.

g. In the event of short- and long-term interruptions, the LEA shall establish an alternative method of instruction in cooperation with the provider.

h. The provider shall judiciously address issues relative to course load and student-teacher ratio as appropriate for the particular method of delivery, course content, and teacher competency to ensure effective student interaction and course management.

i. Students will be enrolled, added, and dropped as outlined in the LEA's pupil progression plan.

j. The provider shall ensure that the teacher providing instruction is provided adequate technical support to ensure ease of use for faculty and students.

k. The provider shall furnish training and/or support in designing course content to fit the delivery methods proposed for distance education courses.

l. The teacher delivering instruction and the facilitator, through ongoing communication, shall be responsible for verifying student participation and performance.

m. The teacher delivering instruction shall provide alternate course procedures and activities for use in case of technical and other course delivery problems arise that prevent normal course delivery.

n. The teacher delivering instruction shall provide an atmosphere conducive to optimal learning including but not limited to monitoring online discussions and other instructional activities.

o. The teacher delivering instruction shall practice ethical and legal use of equipment and instructional resources.

p. The facilitator shall practice ethical and legal use of equipment and instructional resources.

q. The teacher delivering instruction and the facilitator through ongoing communication shall be responsible for verifying student participation and performance.

r. The facilitator shall implement alternate course procedures when technical and other course delivery problems prevent normal course delivery.

s. The facilitator shall maintain an atmosphere conducive to optimal learning, including but not limited to monitoring online discussions and other instructional activities as they occur in the classroom as directed by the teacher delivering instruction.

5. The following technical specifications are required.

a. The receiving LEA shall provide students enrolled in distance education courses technical access which meets specifications furnished by the course provider.

b. The receiving LEA shall provide instructional and communication hardware which meets specifications furnished by the course provider.

c. The receiving LEA shall fund and provide timely and appropriate technical support.

d. The provider will furnish course technical requirements sufficiently in advance so districts may make informed decisions about participation.

e. Course providers will ensure they have the appropriate technical infrastructure to support their course offerings for effective course delivery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, and R.S. 17:183.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1302 (June 2005),

amended LR 33:2051 (October 2007), LR 38:3134 (December 2012), LR 39:

#### **§2327. Dual Enrollment**

A. The following policies apply to students attending colleges or other post secondary institution on a part-time basis.

1. The principal of the high school shall approve in advance the course to be pursued by the student in college.

2. The student shall meet the entrance requirements established by the college.

3. The principal of the high school shall verify that the contents of the college course meet the standards of the high school course for which the student is receiving credit.

4. The student shall earn at least two or three college hours of credit per semester. A course consisting of at least two college hours shall be counted as no more than one unit of credit toward high school graduation.

5. The high school administrator shall establish a procedure with the college to receive reports of the student's class attendance and performance at six- or nine-week intervals.

6. College courses shall be counted as high school subjects for students to meet eligibility requirements to participate in extra-curricular activities governed by voluntary state organizations.

7. Students may participate in college courses and special programs during regular or summer sessions.

8. For gifted students, entry into a college course for credit shall be stated in the student's IEP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1294 (June 2005), amended LR 39:

#### **§2329. Early College Admissions Policy**

A. High school students of high ability may be admitted to a college on a full-time basis.

B. A student shall have maintained a "B" or better average on all work pursued during three years (six semesters) of high school.

C. The student shall have earned a minimum composite score of 25 on the ACT or an equivalent SAT score; this score must be submitted to the college.

D. A student shall be recommended by his high school principal.

E. Upon earning a minimum of 24 semester hours at the college level, the student shall be eligible to receive a high school diploma.

1. The high school principal shall submit to the LDE the following:

a. forms provided by the LDE and completed by the college registrar certifying that the student has earned 24 semester hours of college credit; and

b. a certificate of high school credits.

F. A student not regularly enrolled in the current school year in the high school shall be automatically eliminated from participation in all high school activities, with the exception of high school graduation ceremonies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:183.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1294 (June 2005), amended LR 39:

#### **§2328. Military Service Credit**

##### **[Formerly §2326]**

A. Two units of elective credit toward high school graduation shall be awarded to any member of the United States Armed Forces, their reserve components, the National Guard, or any honorably discharged veteran who has completed his/her basic training, upon presentation of a military record attesting to such completion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1294 (June 2005), amended LR 34:2032 (October 2008), LR 37:3199 (November 2011), LR 39:

#### **§2330. Approval for Experimental Programs**

##### **[Formerly §2393]**

A. Experimental programs are programs that deviate from established standards. Such programs shall be approved by the LDE and carried out under controlled conditions.

B. Approval of experimental programs shall be granted on a yearly basis not to exceed three years, after which time permanent approval shall be considered using the procedures listed below.

1. A letter of intent containing the following information shall be submitted to the LDE, at least 90 days prior to the anticipated date of implementation:

- a. proposed title of program;
- b. name and address of school;
- c. name and signature of superintendent;
- d. name, title, address, and telephone number of person submitting proposal;
- e. units of credit to be granted; and
- f. source of funding.

2. In addition, a brief narrative report stating the intent of the program and the procedures by which the program will be conducted and evaluated, and the following shall be submitted:

- a. a statement documenting support for the intended program;
- b. a statement outlining the exact guideline deviations necessary to implement the program;
- c. a statement outlining specific timelines for the planning and implementing phases of the program, including intended procedures;
- d. a statement of the evaluation procedures to be used in determining the program's effectiveness (these procedures should spell out specific objectives to be accomplished);
- e. a statement indicating approximate number of students to be involved in the project;
- f. a statement of qualifications or certification of instructional personnel; and
- g. a statement stipulating that applicable local, state, and federal regulations will be followed.

3. An evaluation by the local governing authority shall be submitted annually at the close of the school year to the LDE until permanent status is granted.

4. Southern Association of Colleges and Schools member schools should comply with appropriate Southern Association standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1302 (June 2005), amended LR 39:

### Subchapter B. Academic Programs of Study

#### §2335. Computer/Technology Education

A. Computer/technology course offerings shall be as follows.

Course Title(s)	Units
Computer Applications	1
Computer Architecture	1
Computer Science I	1
Computer Science II	1
Computer Systems and Networking I	1
Computer Systems and Networking II	1
Computer/Technology Literacy	1
Desktop Publishing	1
Digital Graphics and Animation	1/2
Multimedia Productions	1/2 or 1
Web Mastering	1/2
Independent Study in Technology Application	1

B. Computer science certification is required to teach computer science I and II. Teachers who are identified to teach one of the other computer education course offerings at the high school level must hold a valid Louisiana secondary certificate or CTTIE certificate in any area and demonstrate sufficient technology proficiencies to teach the course. The district and school shall ensure that teachers have appropriated and demonstrated technology knowledge and skills to teach the courses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1295 (June 2005), amended LR 39:

#### §2339. Driver Education

A. Driver education course offerings shall be as follows.

Course Title(s)	Units
Driver Education and Traffic Safety	1/2

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1295 (June 2005).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1295 (June 2005), amended LR 39:

#### §2345. Foreign Languages

A. The foreign language course offerings shall be as follows.

Course Title(s)	Units
French I, II, III, IV, V	1 each
German I, II, III, IV, V	1 each
Italian I, II, III, IV, V	1 each
Latin I, II, III, IV, V	1 each
Russian I, II, III, IV, V	1 each
Spanish I, II, III, IV, V	1 each
American Sign Language I, II, III, IV	1 each
Greek I, II, III, IV	1 each

Course Title(s)	Units
Chinese I, II, III, IV	1 each
Japanese I, II, III, IV	1 each
Hebrew I, II, III, IV	1 each
Arabic I, II, III, IV	1 each

B. Teachers of American sign language shall have a valid Louisiana teaching certificate and documentation of the following:

1. provisional level certification from the American Sign Language Teachers Association (ASLTA); or
2. certificate of interpretation (CI) from the Registry of Interpreters of the Deaf (RID); or
3. certificate of transliteration (CT) from the RID; or
4. certified deaf interpreter certification (CDI) from the RID; or
5. level IV or V certificate of competence from the National Association of the Deaf (NAD); or
6. level IV or V official documentation of the videotaped version of the educational interpreter performance assessment (EIPA).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R.S. 17:273, and R.S. 17:284.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1295 (June 2005), amended LR 36:1996 (September 2010), LR 38:759 (March 2012), LR 38:2364 (September 2012), LR 39:

#### §2347. Health Education

A. - E.3. ...

F. Health education shall include instruction relative to dating violence. Such instruction shall include but need not be limited to providing students with the following information:

1. the definition of "dating violence;"
2. dating violence warning signs; and
3. characteristics of healthy relationships.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, and R.S. 17:81.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1296 (June 2005), amended LR 33:817 (May 2007), LR 36:1493 (July 2010), LR 37:1135 (April 2011), LR 39:

#### §2349. Jobs for Louisiana's Graduates

A. Jobs for Louisiana's graduates elective course credit toward high school graduation shall be awarded to any student who successfully masters the jobs for Louisiana's graduates core competencies and other additional competencies in the model curriculum.

B. The jobs for Louisiana's graduates course offerings shall be as follows.

Course Title(s)	Units
Job's for Louisiana's Graduates I, II, III, IV	1 unit each

C. Teachers shall be certified in any secondary certification or jobs for Louisiana's graduates VTIE certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1296 (June 2005), amended LR 39:

## §2355. Music

A. - B. ...

C. Approval by LDE is required before private piano and studio strings instruction can be given for credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1296 (June 2005), amended LR 31:3069 (December 2005), LR 33:2354 (November 2007), LR 37:2133 (July 2011), LR 39:

## §2357. Physical Education

A. One and one-half units of physical education shall be required for graduation. They may include

1. physical education I and II;
2. adapted physical education I and II for eligible special education students;
3. JROTC I, II, III, or IV; or
4. physical education I (1 unit) and one-half unit of marching band, extracurricular sports, cheering, or dance team.

B. The physical education course offerings shall be as follows.

Course Title(s)	Units
Adapted Physical Education I, II, III, IV	1 each
Physical Education I, II, III, IV	1 each
Marching Band	½
Cheering	½
Extracurricular Sports	½
Dance Team	½

C. - E. ...

F. Marching band, cheering, extracurricular sports, and dance team shall include weekly physical activity and encourage the benefits of a physically active lifestyle.

1. The LDE may request information to ensure the requirements above are met.

G. - J.5.a. ...

6. approval by the LDE by submitting documentation verifying the following;

- a. off-campus training program and its alignment with the state standards and GLEs;
- b. record of student's attendance and participation;
- c. qualifications of the instructor; and
- d. verification that the school principal has reviewed the documentation.

7. a hold harmless agreement signed by the parent or guardian of the student who would be participating in the off-campus athletic program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:17.1, R.S. 17:24.4, and R.S. 17:276.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1297 (June 2005), amended LR 33:430 (March 2007), LR 38:40 (January 2012), LR 39:

## §2364. Special Education

A. The special education course offerings shall be as follows.

Course Title(s)	Units
Study Skills I, II, III, IV	1 each
Transition: Employment Sampling	1
Transition: Employment	1
Transition: Education/Training	1

Course Title(s)	Units
Transition: Independent Living	1
Local Gifted Elective I, II, III, IV	1 each
Gifted Independent Research I, II, III, IV	1 each
Gifted College and Career Choices	1 each

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:3070 (December 2005), amended LR 39:

## §2367. Religious Studies

A. A maximum of four units in religious studies shall be granted to students transferring from state-approved private and sectarian high schools who have completed such coursework. Those credits shall be accepted in meeting the elective requirements for high school graduation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1298 (June 2005), amended LR 37:2134 (July 2011), LR 39:

## Subchapter C. Career and Technical Education

### §2371. Career and Technical Education Course

#### Offerings

A. Administrative procedures for the operation of program areas in career and technical education are found in Chapter 31.

B. Safety must be taught in all courses. Refer to Bulletin 1674, Career and Technical Education Safety and Health Manual (1992), for safety information.

NOTE: Refer to career and technical education course descriptions and programs of study for the required prerequisites.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1298 (June 2005), amended LR 39:

## §2373. Agricultural Education

A. The Agricultural Education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
Exploratory Agriscience	7-8	-
Agribusiness	10-12	1/2-1
Agricultural Education Elective I, II	9-12	1/2-3
Agriscience I	9-12	1
Agriscience II	10-12	1
Agriscience III	11-12	1
Agriscience Elective I, II	9-12	1/2-3
Agriscience-Construction Technology	11-12	1/2-1
Agriscience-Leadership	9-12	1/2-1
Agriscience Power Equipment	11-12	1/2-1
Animal Science	11-12	1/2-1
Biotechnology in Agriscience	11-12	1
CASE Animal Science	10-12	1
CASE Plant Science	10-12	1
Cooperative Agriscience Education I	11-12	3
Cooperative Agriscience Education II	12	3
Environmental Studies in Agriscience	11-12	1
Equine Science	11-12	1/2-1
Floristry	11-12	1
Forestry	11-12	1/2-1
Horticulture	11-12	1/2-1
Landscape Design, Construction and Maintenance	10-12	1

Course Title(s)	Recommended Grade Level	Units
Meat Processing	11-12	1
Precision Instrumentation in Agriscience	10-12	1/2-1
Small Animal Care and Management	10-12	1/2-1
Veterinary Assistant	10-12	1
Veterinary Assistant II	11-12	1
Woodworks	10-12	1
NCCER Welding Technology I, II	11-12	1-3
NCCER Carpentry I, II	11-12	1-3
NCCER Electrical I, II	11-12	1-3
NCCER Pipefitter I, II	11-12	1-3

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1298 (June 2005), amended LR 33:277 (February 2007), LR 33:2050 (October 2007), LR 34:2386 (November 2008), LR 35:1875 (September 2009), LR 35:2747 (December 2009), LR 36:1995 (September 2010), LR 39:

### **§2375. Business Education**

A. The Business Education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
Exploratory Keyboarding (Middle School)	6-8	
Accounting I	10-12	1
Accounting II	11-12	1
Administrative Support Occupations	11-12	1
Business Communications	10-12	1
Business Computer Applications	10-12	1
Business Education Elective I, II	9-12	1/2-3
Business Law	10-12	1/2
Computer Technology Literacy	9-12	1
Computer Multimedia Presentations	11-12	1/2
Cooperative Office Education (COE)	12	3
Desktop Publishing	9-12	1
Economics	11-12	1
Entrepreneurship	11-12	1
Financial Mathematics	10-12	1
Introduction to Business Computer Applications	9-12	1
Keyboarding	9-12	1/2
Keyboarding Applications	9-12	1/2
Lodging Management I	10-12	1-3
Lodging Management II	11-12	1-3
Principles of Business	9-12	1
Telecommunications	10-12	1/2
Web Design	10-12	1
Web Design II	10-12	1
Word Processing	11-12	1

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1299 (June 2005), amended LR 33:277, 278 (February 2007), LR 33:1614 (August 2007), LR 34:2557 (December 2008), LR 39:

### **§2377. General Career and Technical Education**

A. General career and technical education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
Assistive Technology for the Visually Impaired	9-12	1
Business Enterprises for the	12	1

Course Title(s)	Recommended Grade Level	Units
Visually Impaired		
Braille I	9-12	1
Braille II	9-12	1
CTE Internship I	11-12	1
CTE Internship II	12	1
CTE Internship I	11-12	2
CTE Internship II	12	2
Consumer Finance and Banking	12	1
General Cooperative Education I	11-12	3
General Cooperative Education II	12	3
Education for Careers I, II	11-12	1/2
Advanced Television Broadcasting I	10-12	1-3
Advanced Television Broadcasting II	11-12	1-3
Digital Media I	10-12	1-3
Digital Media II	11-12	1-3
STAR I	11-12	1
STAR II	12	1
Journey to Careers I, II	9	1/2
Oracle Internet Academy		
Database Design and Programming	11-12	1
Database Programming with PL/SQL	11-12	1
Finance Academy		
Business Economics	11-12	1/2
Financial Services	9-12	1/2
Financial Planning	10-12	1/2
Ethics in Business	11-12	1/2
Insurance	10-12	1/2
Business in a Global Economy	11-12	1/2
Principles of Finance	9-12	1/2-1
Principles of Accounting	9-12	1/2
Managerial Accounting	10-12	1/2
Applied Finance	11-12	1/2
Hospitality and Tourism Academy		
Principles of Hospitality and Tourism	9-12	1/2
Entrepreneurship	11-12	1/2
Delivering Great Customer Service	11-12	1/2
Sports Entertainment and Event Management	11-12	1/2
Geography for Tourism	9-12	1/2
Sustainable Tourism	11-12	1/2
Hospitality Marketing	11-12	1/2
Information Technology Academy		
Principles of Information Technology	9-12	1/2
Computer Networking	10-12	1/2
Web Design	10-12	1/2
Databases Design	11-12	1/2
Computer Systems	9-12	1/2
Introduction to Programming	10-12	1/2
Digital Video	9-12	1/2

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1299 (June 2005), amended LR 32:546 (April 2006), LR 32:1415 (August 2006) LR 33:278 (February 2007), LR 33:2050 (October 2007), LR 34:1386 (July 2008), LR 34:2558 (December 2008), LR 35:1229 (July 2009), LR 35:2319 (November 2009), LR 35:2748 (December 2009), LR 36:1496 (July 2010), LR 36:1997 (September 2010), LR 39:

### §2379. Family and Consumer Sciences Education

A. The family and consumer sciences (FACS) education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
Exploratory FACS	7-8	
Family and Consumer Sciences I	9-12	1
Family and Consumer Sciences II	10-12	1
Food Science	10-12	1
Adult Responsibilities	11-12	1/2
Child Development	10-12	1/2
Personal and Family Finance	10-12	1/2
Family Life Education	10-12	1/2
Clothing and Textiles	10-12	1/2
Housing and Interior Design	10-12	1/2
Nutrition and Food	10-12	1/2
Parenthood Education	11-12	1/2
Advanced Child Development	10-12	1/2
Advanced Clothing and Textiles	10-12	1/2
Advanced Nutrition and Food	10-12	1/2
FACS Elective I, II	9-12	1/2-3
Occupational Courses		
Clothing and Textile Occupations I	11-12	1-3
Clothing and Textile Occupations II	12	1-3
Early Childhood Education I	11-12	1-3
Early Childhood Education II	12	1-3
Food Services I	11-12	1-3
Food Services II	11-12	1-3
Food Service Technician	11-12	1
Housing & Interior Design Occupations	11-12	1-3
ProStart I	11-12	1-3
ProStart II	12	1-3
Baking and Pastry Arts I	11-12	1-3
Baking and Pastry Arts II	12	1-3
Cooperative FACS Education	12	3

AUTHORITY NOTE: Promulgated in accordance R.S. 17:7, R.S. 17:24.4, and R.S. 17:279.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1299 (June 2005), amended LR 33:278 (February 2007), LR 37:880 (March 2011), LR 39:

### §2381. Health Science Education

A. Health occupations course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
AHEC of a Summer Career Exploration	9-12	1/2
Allied Health Services I	10-12	1-2
Allied Health Services II	10-12	1-2
Cooperative Health Occupations	11-12	3
Dental Assistant I	10-12	1-2
Dental Assistant II	11-12	2-3
Emergency Medical Technician—Basic	12	2-3
First Responder	10-12	1/2-2
Health Occupations Elective I, II	9-12	1/2-3
Health Science I	11-12	1-2
Health Science II	12	1-2
Introduction to Health Occupations	9-12	1

Course Title(s)	Recommended Grade Level	Units
Introduction to Pharmacy Assistant	10-12	1
Medical Assistant I	10-12	1-2
Medical Assistant II	11-12	1-2
Medical Assistant III	12	1-2
Medical Terminology	9-12	1
Nurse Assistant	10-12	2-3
Patient Care Technician	12	3
Pharmacy Technician	12	1-2
Sports Medicine I	10-12	1/2
Sports Medicine II	11-12	1/2
Sports Medicine III	11-12	1

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1300 (June 2005), amended LR 33:279 (February 2007), LR 33:1615 (August 2007), LR 33:2051 (October 2007), LR 35:1875 (September 2009), LR 35:2320 (November 2009), LR 35:2749 (December 2009), LR 36:2261 (October 2010), LR 39:

### §2382. Law, Public Safety, Corrections and Security Education

A. The law and public safety education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
Criminal Justice Elective I, II	9-12	1/2-3

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:1875 (September 2009), amended LR 39:

### §2383. Marketing Education

A. Marketing education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
Advertising and Sales Promotion	11-12	1
Cooperative Marketing Education I	11-12	3
Cooperative Marketing Education II	12	3
Customer Service	12	1
Entrepreneurship	11-12	1
Leadership	9-12	1/2
Marketing Education Elective I, II	9-12	1/2-3
Marketing Management	11-12	1
Marketing Research	11-12	1
Personal Finance	9-12	1/2
Principles of Marketing	9-12	1
Retail Marketing	10-12	1
Sports and Entertainment Marketing	11-12	1
Tourism Marketing	10-12	1

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1300 (June 2005), amended LR 33:279 (February 2007), LR 33:1615 (August 2007), LR 34:2558 (December 2008), LR 39:

**§2385. Technology Education**

A. Technology education (formerly industrial arts) course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
Advanced Electricity/Electronics	10-12	1
Advanced Metal Technology	10-12	1
Advanced Wood Technology	10-12	1
Aerospace Engineering	11-12	1
Automation in Manufacturing	10-12	1
Basic Electricity/Electronics	9-12	1
Basic Metal Technology	9-12	1
Basic Wood Technology	9-12	1
Civil Engineering and Architecture	11-12	1
Communication/Middle School	6-8	
Communication Technology	9-12	1
Computer Integrated Manufacturing	11-12	1
Construction/Middle School	6-8	
Construction Technology	10-12	1
Cooperative Technology Education	10-12	3
Digital Electronics	9-10	1
Energy, Power, and Transportation Technology	9-12	1
Engineering Design I, II	11-12	1
Engineering Design and Development	11-12	1
General Technology Education	9-12	1
Introduction to Engineering Design	8-12	1
Manufacturing Process and Team Building	9-12	1
Manufacturing Technology	9-12	1
Manufacturing Technology/Middle School	6-8	
Manufacturing Tools and Equipment	10-12	1
Marine Engineering	11-12	0.5
Materials and Processes	10-12	1
Modular Technology/Middle School	6-8	
Oil and Gas Production Operations	11-12	1
Physics of Technology I	10-12	1
Physics of Technology II	11-12	1
Power Mechanics	9-12	1
Principles of Engineering	9-10	1
T2 Safety Systems for Oil and Gas Production	11-12	1
Technology Education Computer Applications	9-12	1
Technology Education Elective I, II	9-12	1/2-3
Transportation Technology/Middle School	6-8	
Welding Technology	10-12	1
Advanced Technical Drafting	10-12	1
Architectural Drafting	10-12	1
Basic Technical Drafting	9-12	1
Introduction to Fabrication P-Tech and Manufacturing	10-12	1
NCCER Carpentry I, II TE	11-12	1-3
NCCER Electrical I, II TE	11-12	1-3
NCCER Industrial Maintenance	11-12	1-3
NCCER Instrumentation Control Mechanic I, II	11-12	1-3
NCCER Insulating	11-12	1-3
NCCER Pipe Fitter I, II TE	11-12	1-3
NCCER Welding Technology I, II TE	11-12	1-3
Process Technician I, II	11-12	1
T2 Safety Systems for Oil and Gas Production	11-12	1

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1300 (June 2005), amended LR 33:279 (February 2007), LR 35:1229 (July 2009), LR 35:2323 (November 2009), LR 35:2747 (December 2009), LR 36:1997 (September 2010), LR 38:1400 (June, 2012), LR 38:2364 (September 2012), LR 39:

**§2387. Trade and Industrial Education**

A. Trade and industrial education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
Air Conditioning/ Refrigeration I, II	11-12	1-3
Air Conditioning/ Refrigeration III, IV	11-12	2-3
Auto Body Repair I, II	11-12	1-3
Auto Body Repair III, IV	11-12	2-3
Automotive Technician I, II	11-12	1-3
Automotive Technician III, IV, V, VI	11-12	1-3
General Automotive Maintenance	11-12	1-3
G.M. Technician I, II	11-12	1-3
NCCER Carpentry I, II	11-12	1-3
NCCER Electrical I, II	11-12	1-3
NCCER Instrumentation Control Mechanic I, II	11-12	1-3
NCCER Pipe Fitter I, II	11-12	1-3
NCCER Welding Technology I, II	11-12	1-3
Masonry I, II	11-12	1-3
Cabinetmaking I, II	11-12	1-3
Carpentry I, II	11-12	1-3
Carpentry III, IV	11-12	2-3
Culinary Occupations I, II	11-12	1-3
Culinary Occupations III, IV	11-12	2-3
Custom Sewing I, II	11-12	1-3
Computer Electronics I, II	11-12	1-3
Computer Service Technology I, II	11-12	2-3
Commercial Art I, II	11-12	1-3
T and I Cooperative Education (TICE) I	11-12	1-3
T and I Cooperative Education (TICE) II	12	1-3
T and I Elective I	11-12	1-3
T and I Elective II	11-12	1-3
Cosmetology I, II	11-12	1-3
Cosmetology III, IV	11-12	2-3
Diesel Mechanics I, II	11-12	1-3
Diesel Mechanics III, IV	11-12	2-3
Drafting and Design Technology I, II	11-12	1-3
Drafting and Design Technology III, IV	11-12	2-3
Basic Electricity I, II	11-12	1-3
Electronics I, II	11-12	1-3
Industrial Electronics I, II	11-12	1-3
Electrician I, II	11-12	1-3
Electrician III, IV	11-12	2-3
Graphic Arts I, II	11-12	1-3
Graphic Arts III, IV	11-12	2-3
Horticulture I, II	11-12	1-3
Industrial Engines I, II	11-12	1-3
Laboratory Technology I, II	11-12	1-3
Industrial Machine Shop I, II	11-12	1-3
Industrial Machine Shop III, IV	11-12	2-3
Marine Operations I, II	11-12	1-3
Photography I, II	11-12	1-3
Networking Basics	10-12	2-3
Routers and Routing Basics	10-12	2-3



Course Title(s)	Recommended Grade Level	Units
Switching Basics and Intermediate Routing	11-12	2-3
WAN Technologies	11-12	2-3
Plumbing I, II	11-12	1-3
Printing I, II	11-12	1-3
Sheet Metal I, II	11-12	1-3
Outdoor Power Equipment Technician I, II	11-12	1-3
Outdoor Power Equipment Technician III, IV	11-12	2-3
Television Production I, II	11-12	1-3
Upholstery I, II	11-12	1-3
Welding I, II	11-12	1-3
Welding III, IV	11-12	2-3
Hull Shipbuilding	11-12	1/2
Barber I-IV	9-12	2

B. An LEA may offer a one-hour trade and industrial education program for one unit of credit at the ninth or tenth grade level as a prerequisite to enrollment in a related trade and industrial education program at the tenth, eleventh, or twelfth grade level. The course shall be in the programmatic area in which the trade and industrial education instructor is certified to teach.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1300 (June 2005), amended LR 32:1415 (August 2006), LR 33:1615 (August 2007), LR 34:2558 (December 2008), LR 35:2324 (November 2009), LR 35:2748 (December 2009), LR 35:2751 (December 2009), LR 39:

### **§2389. Credit for Career and Technical Education**

#### **Courses**

A. Requests for partial credit for two- or three-hour blocks of career and technical education courses because of unusual or extenuating circumstances shall be made by the LEA. Documentation shall be kept in the student's cumulative folder.

B. A secondary student attending a postsecondary technical college during the regular school year or summer program may receive credit for instruction in any program area offered in the postsecondary technical college if requirements for Carnegie units are met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:183.1 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1301 (June 2005), amended LR 39:

### **§2391. Secondary Students Attending a Private**

#### **Cosmetology School**

A. A secondary student attending an approved cosmetology school, licensed by the Louisiana State Board of Cosmetology, may receive trade and industrial education credit if requirements for Carnegie units are met.

B. A copy of the written agreement between the LEA and the private cosmetology school shall be on file in the central office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:183.1 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1301 (June 2005), amended LR 39:

### **§2393. Approval for Experimental Programs**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1302 (June 2005), repealed LR 39:

### **§2395. Distance Education**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, and R.S. 17:183.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1302 (June 2005), amended LR 33:2051 (October 2007), LR 38:3134 (December 2012), repealed LR 39:

### **Chapter 25. Summer Schools, Special Ed Extended School Year Programs**

#### **§2501. Elementary Summer Schools**

A. LEAs may offer a summer school program to enable students who have failed in subjects to remove deficiencies and be considered for promotion to the next grade or to provide additional learning opportunities.

B. Summer schools shall be organized and operated under the administration and supervisory control of the superintendent of the LEA.

C. LEAs shall provide summer school remediation and retest opportunities as outlined in *Bulletin 1566—Pupil Progression Policies and Procedures*.

D. Students attending summer school for promotional purposes shall have written consent by the principal of the last school they attended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1304 (June 2005), amended LR 39:

#### **§2503. Secondary Summer Schools**

A. Schools may offer summer school to enable students to schedule courses to enrich their experiences, to take new subjects, and to enable students who have failed in subjects to remove deficiencies.

B. Summer schools shall be organized and operated under the administrative and supervisory control of the superintendent of the LEA.

C. The summer school administration shall have written permission from the principal of the student's home school for the student to attend summer school if high school credit is to be awarded.

D. LEAs shall provide summer school remediation and retest opportunities as outlined in *Bulletin 1566—Pupil Progression Policies and Procedures*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1304 (June 2005), amended LR 39:

#### **§2504. Private Summer School Providers**

A. All students shall have written permission from the principal of the student's home school to attend a private summer school provider for credit or promotional purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10 and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:3071 (December 2005), amended LR 39:

**§2505. Extended School Year Program (ESY) for Eligible Students with Disabilities**

A. Each LEA shall provide eligible students with disabilities special educational and related services beyond the normal school cycle when stated in the IEP.

NOTE: Refer to *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act* and *Bulletin 1530—Louisiana IEP Handbook for Students with Exceptionalities*.

AUTHORITY NOTE: Promulgated in accordance with 20 USCS 1412 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1305 (June 2005), amended LR 39:

**Chapter 29. Alternative Schools and Programs**

**§2901. Philosophy and Need for Alternative Schools/Programs**

A. - B. ...

C. Any student suspended or expelled from school for a period of over 10 consecutive school days shall remain under the supervision of the LEA taking such action using alternative education programs for suspended and expelled students.

D. Any student placed in an alternative school or an alternative education program must attend and participate in such school, program, or education services.

E. Each alternative school/program shall develop and maintain a written statement of its philosophy and the major purposes to be served by the school/program. The statement shall reflect the individual character of the school/program and the characteristics and needs of the students it serves.

F. The educational school/program shall be designed to implement the stated goals and objectives, which shall be directly related to the unique educational requirements of its student body.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.5 and RS 17:416.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1308 (June 2005), amended LR 39:

**§2903. Approval for Alternative Schools or Programs**

A. Alternative schools or programs shall comply with prescribed policies and standards according to *Bulletin 131—Alternative Education Schools/Programs Standards* and for regular schools except for those deviations granted by BESE. Additional information can be obtained in the Louisiana alternative education handbook found on the DOE website.

B. Approval to operate an alternative school or program shall be obtained from BESE.

1. An LEA choosing to implement a new alternative school or program shall notify the LDE on or before the date prescribed by the LDE. LEAs may not change their requested school or program classification after July 1.

2. The LDE will provide BESE with an annual report from alternative schools or programs by October of each year.

C. An approved alternative school or program shall be described in the LEA's pupil progression plan.

D. Approved alternative programs and alternative schools shall be subject to monitoring by the DOE staff, as needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1308 (June 2005), amended LR 35:2318 (November 2009), LR 37:2128 (July 2011), LR 38:1583 (July 2012), LR 39:

**§2905. Evaluation of Alternative Schools/Programs**

A. Each LEA annually shall evaluate each alternative school/program. The evaluation shall be based upon the standards for approval of alternative schools/programs and shall include testing of basic skills for student participants. The process of evaluation shall also include teacher, parent, and student input from the alternative school. The annual report shall be made to the LDE on or before the date prescribed by the LDE.

B. Starting with the 2013-2014 academic year, all alternative schools and programs will receive a performance report that shall include, but not be limited to, data pertaining to academic progress, credit accumulation, completion, and behavior modification.

NOTE: Refer to the alternative education handbook for program operation guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1308 (June 2005), amended LR 35:2319 (November 2009), LR 39:

**§2907. Connections Process**

A. All LEAs should be empowered to create a system of intervention appropriate for the student population and every LEA shall be held accountable for the academic growth of every student.

B.1. LEAs may choose to implement the Connections Process which replaces Louisiana's PreGED/Skills Option Program. Connections is a one-year process for overage students to receive targeted instruction and accelerated remediation aimed at attaining a high school diploma, high school equivalency diploma (by passage of GED tests), or state-approved skills certificate. The process includes a connections profile to track the following elements:

- a. academic and behavioral interventions;
- b. mentoring;
- c. job skills training;
- d. TABE locator and battery assessments;
- e. committee reviews;
- f. parent meetings;
- g. individual prescriptions for instruction;
- h. individual graduation plans; and
- i. exiting pathways.

2. While in the Connections Process, students are eighth graders and therefore shall take required eighth grade courses per Bulletin 741.

NOTE: Refer to high stakes testing policy in *Bulletin 1566—Pupil Progression Policies and Procedures*. Requirements differ for initial 8th grade students and students repeating the 8th grade.

3. Students in the Connections Process shall be 15 years of age during the school year and two years behind their peers academically to enter the Connections Process.

4. Schools opting to participate in the Connections Process must follow the Connection Process handbook found on the LDE website.

C. All LEAs participating in the Connections Process shall annually submit their intent to participate to the LDE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1308 (June 2005), amended LR 34:2032 (October 2008), LR 37:2131 (July 2011), LR 38:1000 (April 2012), LR 39:

#### **§2909. The Earning of Carnegie Units**

A. Students enrolled in an alternative school/program shall have the opportunity to earn Carnegie credits when possible.

B. Carnegie credits courses shall be taught by regular or special education teachers certified in the subject matter areas in which they are teaching.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1309 (June 2005), amended LR 39:

#### **§2911. Alternative Education Providers**

A. A school governing authority may enter into an agreement with an education service provider to provide an alternative education placement for students.

##### **B. Required Interventions**

1. The program or school run by the educational service provider must provide academic, behavioral, and mental health interventions including, but not limited to, those listed in R.S. 17:416.2(D)(3)(b) for any student who meets any of the following criteria:

a. has been adjudicated delinquent by a court having juvenile jurisdiction as defined in Article 302 of the *Louisiana Children's Code*;

b. has been adjudicated by a court as a member of a family in need of services and is assigned by the office of juvenile justice to a community-based program or facility;

c. is in the custody of the office of juvenile justice as a result of an adjudication and is assigned by the office of juvenile justice to a community-based program or facility; or

d. is a student who has been suspended or expelled pursuant to the provisions of R.S. 17:416(B) or (C)(2).

2. Such services shall be provided to the school governing authority at the actual costs incurred by the provider, not to exceed for each student the pro rata share of the combined state and local per pupil amount of the minimum foundation program for such governing authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:216.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:

### **Chapter 31. Career and Technical Education (CTE)**

#### **§3103. Requirements for Teachers**

A. The CTE teacher shall hold a valid Louisiana teaching certificate or valid career and technical trade and industrial education (CTTIE) certificate that entitles the holder to teach in the career area of the actual teaching assignment. Certification is required to teach in all CTE program areas.

[Refer to LAC 28:CXXXI.Bulletin 746—Louisiana Standards for State Certification of School Personnel, §§501-511.]

B. CTE instruction shall integrate state-approved standards for students to achieve the desired CTE

competencies and academic competencies that will enable the student to be successful on the job or at the postsecondary level.

C. All agriculture teachers employed by an LEA shall teach a 12-month program for a 12-month budget period and shall be paid a salary at the same monthly rate as provided in the minimum salary schedule contained in R.S. 17:421.3. The agriculture program shall include, but not be limited to recognized co-curricular activities, to be supervised by agriculture teachers during the summer months such as those offered by the National Future Farmers of America (FFA) Organization or other appropriate organizations that provide summer occupational experiences, leadership programs, statewide judging contests, and youth conventions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17: 422.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1309 (June 2005), amended LR 35:1877 (September 2009), LR 35:2323 (November 2009), LR 39:

#### **§3107. Instructional Programs**

A. For each CTE course, the teacher shall follow the model course guidelines.

B. Instructional content of each course shall meet state and federal guidelines relative to unbiased treatment of race, sex roles, and religious and political beliefs.

C. Secondary students who are in the ninth through the twelfth grade shall be eligible for enrollment in CTE programs.

D. Middle school (grades seven through eight) career and technical education programs shall meet the generic standards for senior high CTE programs, as well as specific standards for middle school approval in the CTE program area(s). Middle school CTE programs shall be coordinated with the CTE program at the senior high school.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:181.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1309 (June 2005), amended LR 39:

#### **§3109. Carnegie Credit**

A. Credit shall be awarded for successful completion of one-half to three Carnegie credits of career and technical education courses.

1. Credit for partial completion of two- or three-hour career and technical education courses may be granted for unusual or extenuating circumstances. Documentation shall be kept in the student's cumulative folder.

B. No career and technical education or contract course shall be offered for credit in any secondary setting if it requires a license to practice the job, until the course has been approved by the licensing board designated to regulate that vocation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1310 (June 2005), amended LR 39:

#### **§3111. Career and Technical Education Student Organizations (CTSOs)**

A. Activities of CTSOs should be offered as an integral part of the CTE instruction and be under the supervision of

the instructional staff. The CTSOs for the respective CTE program areas are as follows:

1. agriscience—National FFA Organization (FFA);
2. business education—Future Business Leaders of America (FBLA);
3. health occupations—Health Occupations Students of America (HOSA);
4. family and consumer sciences—Family, Career, and Community Leaders of America (FCCLA);
5. marketing education—Association of Marketing Students (DECA);
6. technology education—Technology Student Association (TSA);
7. trade and industrial education—SkillsUSA.

B. Each local school governing authority shall develop procedures and policies for the approval of travel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1310 (June 2005), amended LR 39:

### **§3113. Work-Based Learning**

A. - F.1. ...

#### **G. Teacher-Coordinator for Work-Based Learning**

1. The teacher-coordinator and the employer shall cooperatively complete a training memorandum for both the classroom phase and the on-the-job training phase. The training memorandum and a list of skill competencies shall be prepared for each student. The list of competencies shall include skills and knowledge to be learned in the classroom and skills to be learned through on-the-job training.

2. Copies of the training memorandum and skills competencies shall be maintained in each work-based education student's folder and provided to the training sponsor (employer). The training memorandum is the application for an employment certificate for work-based education students. The employment certificate must be applied for on-line through the LA Workforce Commission's website.

3. Each teacher-coordinator for work-based programs must submit a class organization report to the LDE.

4. The cooperative education teacher-coordinator shall visit each student on the job to observe the student at work, to confer with the employer, and to obtain a written evaluation of the student's progress at least four times during the school year.

5. The internship education teacher-coordinator shall visit each student on the job to observe the student at work, to confer with the employer, and to obtain a written evaluation of the student's progress at least two times during the school year.

6. The teacher-coordinator shall inform the employer of labor laws as they apply to minors engaged in work-based learning.

7. Orientation and pre-employment training, as well as safety training, shall be provided for each student prior to the student's placement with a program training sponsor (employer).

8. It is recommended that funding for extended employment beyond the school year be provided for each teacher-coordinator.

9. The program training sponsor (employer) shall complete a written evaluation of each student's on-the-job performance for each grading period.

10. The teacher-coordinator shall be responsible for determining the student's grade.

#### **H. Work-Based Learning Students**

1. Cooperative education students shall be placed in appropriate, paid training stations within three weeks of the opening of school. Students not placed shall be rescheduled into non-cooperative courses.

2. Cooperative education students shall receive minimum wage or above for the hours spent in job training.

3. Internship students shall be placed in appropriate, paid or non-paid training stations within three weeks of the opening of school. Students not placed shall be rescheduled into non-internship courses.

4. Students in cooperative office education, cooperative technology education, health occupations cooperative education, and family and consumer sciences cooperative education shall be seniors. Students in cooperative agriscience education, general cooperative education, cooperative marketing education, and trade and industrial cooperative education (TICE) shall be juniors or seniors.

a. Reference model course guidelines for course requirements and prerequisites.

5. Internship students shall be juniors or seniors.

6. Work-based education students must successfully complete both the classroom and the on-the-job training phase to receive any credit. Students enrolled in cooperative education course shall not begin a work-based program at midterm.

NOTE: Refer to career and technical education course offerings for prerequisites and requirements for specific work-based programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1310 (June 2005), amended LR 33:280 (February 2007), LR 39:

### **§3115. Procedures for Program Approval**

A. Any new instructional program in career and technical education, including regular, cooperative, pilot, or alternative, shall obtain approval from the LDE before initiation.

B. In order to qualify for funding as an approved program:

1. instruction shall be based on the CTE standards and benchmarks and model course guidelines;

2. the teacher shall maintain certification in the CTE program they are assigned to teach;

3. if a school offers an industry-based certification (IBC), the teacher of the IBC course(s) shall hold or work toward obtaining the industry certification. Teachers shall have a maximum of three years to obtain the certification;

4. each program area offered by a high school shall make available at least one career pathway approved by BESE;

5. each program area shall offer courses in that program area for at least 50 percent of the school day;

6. where national program certification exists, the program shall meet or work toward obtaining the program

certification. Schools shall have a maximum of three years to obtain the certification;

7. CTE instruction shall integrate career and technical education and state-approved standards to strengthen basic academic skills in communication, mathematics, science and social studies and develop critical thinking skills through practical applications in real-life situations;

8. each local educational governing authority should establish and maintain a local advisory council for CTE.

a. The membership of the local advisory council should be composed of representatives of the general public, including at least a representative of business, industry, and labor with appropriate representation of both sexes and racial and ethnic minorities found in the program areas, schools, community, or region that the local advisory council serves.

b. The duties of the local advisory council include advising the local education governing authority on:

i. current job needs; and

ii. the relevancy of programs (courses) being offered to meet the current job needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1311 (June 2005), amended LR 39:

### **§3117. Additional Program Approval Procedures**

#### **A. Agriscience/Agribusiness**

1. The teacher shall assist each student in planning and developing a supervised agriculture experience (SAE) program of one or more of the following types:

a. ownership at the student's home, farm or business;

b. placement at a farm or agribusiness other than that owned by the student;

c. directed laboratory at a school facility such as school farm, greenhouse, garden, shop, forestry plot, food preservation center, etc.

2. The teacher shall supervise on a regular and periodic basis all SAE programs and shall assist the students in maintaining accurate records of their SAE programs.

3. The teacher shall participate in inservice activities by attending and taking part in the annual summer inservice held in conjunction with the area FFA leadership camp and any other LDE-sponsored inservice required of all agriculture teachers in the state.

4. The teacher shall organize and maintain an active chapter of the National FFA Organization, serving as its advisor, and will attend with two or more members the state convention and area leadership camp. Dues and special fees and reports will be submitted by the deadline set by the Louisiana Association of FFA. Each FFA chapter will participate in a minimum of four contests at the area or state level and will submit applications for at least three chapter or individual FFA awards. All FFA members will achieve the greenhand degree, and 80 percent or more of members enrolled in classes above the agriscience I level will achieve the chapter FFA degree.

5. The LEA shall determine required documentation regarding an agriscience teacher's summer work activities. The teacher shall be responsible for carrying out the summer work activities and submitting reports, as deemed necessary by the LEA, documenting the summer work activities.

6. Each LEA will be responsible for maintaining the above documentation of the additional program approval requirements for their agriscience/agribusiness programs.

#### **B. Health Science Education**

1. Health science education programs shall meet requirements of appropriate licensing or recognized accrediting agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:185.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1311 (June 2005), amended LR 39:

### **Chapter 33. Home Study Programs**

#### **§3305. Application Process**

##### **A. Initial Application**

1. An initial application must be made within 15 days after the beginning of the program to the LDE for review and recommendation to BESE.

2. The initial application shall be accompanied by a certified copy or a photocopy of the birth certificate of the child.

##### **B. - C. ...**

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:236.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1312 (June 2005), amended LR 39:

#### **§3309. Curriculum**

A. The home study program shall have a sustained curriculum of a quality at least equal to that offered by public schools at the same grade level. The sustained curriculum must be substantiated in one of the following ways:

1. a packet of materials which shall be evaluated by the LDE for adequacy and which shall include such documents as:

a. a complete outline of each of the subjects taught during the previous year;

b. lists of books/materials used;

c. copies of the student's work;

d. copies of the student's standardized test results;

e. statements by third parties who have observed the child's progress; or

f. any other evidence of the quality of the program being offered;

2. verification that the child took the LEAP tests and scored at or above the state performance standards as established by BESE for his/her grade level; or

3. verification that the child has taken the California Achievement Test or such other standardized examinations as may be approved by BESE including, but not limited to, tests approved for the Nonpublic School Testing Program, and the child has scored at or above his/her grade level for each year in home study; or

4. a statement from a teacher certified to teach at the child's grade level stating that the teacher has examined the program being offered and that in his/her professional opinion this child is being taught in accordance with a sustained curriculum of quality at least equal to that offered by public schools at the grade level, or in the case of children with mental or physical disabilities, at least equal to that offered by public schools to children with similar

disabilities. The teacher evaluation is subject to review and approval by BESE.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:236.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1312 (June 2005), amended LR 37:1137 (April 2011), LR 39:

### **§3313. Admission or Readmission to the Public School System**

A. The LEA shall have a written policy included in the local pupil progression plan for admission or readmission of home study students to public schools. Refer to *Bulletin 1566—Pupil Progression Policies and Procedures*.

1. The policy shall provide for the screening and evaluation of such students and shall include examinations to determine the grade level at which students should be admitted.

2. The policy shall include the administration of the Louisiana Educational Assessment Program tests for the grades offered or required by BESE. Refer to the guidelines for nonpublic and home schooled students transferring to the public school systems: participation in the LEAP.

B. - B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:236.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1313 (June 2005), amended LR 39:

### **§3317. Cost**

A. All costs directly attributed to the home study program shall be borne by the parents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:236.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1313 (June 2005), amended LR 39:

## **Chapter 35. Montessori Schools**

### **§3501. Approval of Training Courses**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3401.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1313 (June 2005), repealed LR 39:

### **§3503. Classification Categories**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3401 and R.S. 17:3402.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1314 (June 2005), repealed LR 39:

### **§3505. School Approval Procedures**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3401.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1314 (June 2005), repealed LR 39:

### **§3507. Staff Requirements**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3401 and R.S. 17:3403.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1314 (June 2005), repealed LR 39:

### **§3509. Plant and Facilities**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3402.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1314 (June 2005), repealed LR 39:

### **§3511. Programs and Materials**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3402.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1315 (June 2005), repealed LR 39:

### **§3513. Scheduling**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3402.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1315 (June 2005), repealed LR 39:

### **§3515. Admissions and Enrollment**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3402.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1315 (June 2005), repealed LR 39:

### **§3517. Parent Interaction Requirements**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3402.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1315 (June 2005), repealed LR 39:

## **Chapter 37. Glossary**

### **§3701. Abbreviations/Acronyms**

ADA—Americans with Disabilities Act.

AP—advanced placement.

BESE—Board of Elementary and Secondary Education.

CPR—cardiopulmonary resuscitation.

CTE—career/technical education.

CTSO—career and technical student organizations.

CTTIE—career and technical trade and industrial education.

DECA—An association of marketing students.

FBLA—Future Business Leaders of America.

FCCLA—Family, Career, and Community Leaders of America.

FFA—National FFA Organization.

GED—General Educational Development test.

GEE 21—Graduation Exit Examination for the 21st Century.

GLEs—grade-level expectations.

HOSA—Health Occupations Students of America.

IDEA—Individuals with Disabilities Education Act; the special education law.

IAP—individualized accommodation program.

LDE—Louisiana Department of Education.

*IB*—international baccalaureate.  
*IBC*—industry-based certification.  
*IEP*—individualized education program.  
*JROTC*—Junior Reserve Officer Training Corps.  
*LEA*—local education agency.  
*LEAP 21*—Louisiana Educational Assessment Program for the 21st Century.

*LHSAA*—Louisiana High School Athletic Association.  
*LMA*—Louisiana Montessori Association.  
*MFP*—Minimum Foundation Program.  
*MPS*—minimum proficiency standards.  
*NAEP*—national assessment of educational progress.  
*NCLB*—No Child Left Behind.  
*OFAT*—out-of-field authority to teach.  
*SAE*—supervised agriculture experience.  
*SAPE*—substance abuse prevention education.  
*TAT*—temporary authority to teach.  
*TSA*—Technology Student Organization.  
*TOPS*—Taylor Opportunity Program for Students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1316 (June 2005), amended LR 39:

### §3703. Definitions

*Academic Endorsement*—recognition for high school graduates who meet requirements listed in §2318 which are above the requirements of a standard diploma.

*Academically Able Student*—a student who is functioning at grade level as determined by the local school system. For special education students identified in accordance with *Bulletin 1508—Pupil Appraisal Handbook*, the IEP committee shall determine the student's eligibility to receive foreign language instruction, provided the student is performing at grade level.

*Accommodation*—any technique that alters the academic setting or environment. An *accommodation* generally does not change the information or amount of information learned. It enables students to show more accurately what they actually know.

*Activity Class*—any class such as band, theatre, or chorus for which a large class size is acceptable due to the nature of the instruction.

*Adapted Physical Education*—specially designed physical education for those exceptional students for whom significant deficits in the psychomotor domain have been identified according to *Bulletin 1508—Pupil Appraisal Handbook*, and who, if school-aged, are unable to participate in regular physical education programs on a full-time basis.

*Adult Education*—instruction below the college level for adults who have not been awarded a regular high school diploma and who are not currently required to be enrolled in school.

*Advanced Placement Program*—the *Advanced Placement Program* of the College Board gives students the opportunity to pursue college-level studies while still in secondary school and to receive advanced placement and/or credit upon entering college.

*Alternative School/Program*—an educational school/program that deviates from the standards stated in Bulletin 741 in order to meet the specific needs of a particular segment of students within the community. There are two types of *alternative schools/programs*:

1. alternative within regular education:
  - a. the curriculum addresses state standards; and
  - b. upon graduation, students earn a state-approved diploma;
2. alternative to regular education:
  - a. the curriculum does not address state standards; and
  - b. upon graduation, students do not earn a state-approved high school diploma.

*Alternative to Regular Placement*—placement of students in programs that are not required to address BESE performance standards.

*Approved School*—a public or nonpublic school that has an approval classification based upon a degree of compliance with standards/regulations prescribed by BESE.

*Area of Concentration*—a coherent sequence of courses or field of study that prepares a student for a first job and/or further education and training. It includes four sequential related credits in a specific area plus two credits in a related field; one must be a basic computer course.

*Articulated Credit*—promotes a smooth transition from secondary to postsecondary education. It serves as a vehicle for high school students to earn postsecondary credit while enrolled in high school or upon entering postsecondary study.

*Assessment*—the act or process of gathering data in order to better understand the strengths and weaknesses of a student learning as by observation, testing, interviews, etc.

*Attendance (Half-Day)*—a student is considered to be in attendance for one-half day when he or she:

1. is physically present at a school site or is participating in an authorized school activity; and
2. is under the supervision of authorized personnel for more than 25 percent but more than half (26-50 percent) of the student's instructional day.

*Attendance (Whole-Day)*—a student is considered to be in attendance for a whole day when he or she:

1. is physically present at a school site or is participating in an authorized school activity; and
2. is under the supervision of authorized personnel for more than 50 percent (51-100 percent) of the student's instructional day.

*BESE Policy*—a comprehensive statement that has been adopted by BESE pursuant to the APA process and that has the force and effect of law to govern and to bring uniformity in education throughout Louisiana

*Career Major*—a coherent sequence of courses or field of study that prepares a student for a first job and/or further education and training. It includes four sequential related credits in a specific area plus two credits in a related field; one must be a basic computer course.

*Career Technical Endorsement*—an endorsement beyond a regular diploma which has the purposes of enhancing a student's junior/senior years and providing a "credential" for postsecondary work with specific performance indicators that include industry-based certification and/or articulated credit and work-based learning.

*Class Size*—the maximum enrollment allowed in a class or section.

*Co-Curricular Activities*—those activities that are relevant and supportive, that are an integral part of the program of

studies in which the student is enrolled, and that are under the supervision and/or coordination of the school instructional staff.

*Cooperative Education*—programs that provide opportunities for career and technical education students to receive on-the-job training and related classroom instruction in the areas of agriculture, business, health, family and consumer science, marketing, and trade and industrial education programs.

*Credit Exam*—an examination for the purpose of verifying a student has mastered a course taken under conditions that do meet the requirements for awarding Carnegie credit, such as teacher certification or time requirements.

*Cultural Arts*—that subject area that includes music, arts and crafts, and the fine arts.

*Cumulative Record*—a current record of academic, health, and other special types of information maintained for each student throughout his progress in school.

*Education Records*—

1. those records, files, documents, and other materials which:

a. contain information directly related to a student; and

b. are maintained by an educational agency or institution or by a person acting for such agency or institution.

2. The term *education records* does not include:

a. records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute;

b. records maintained by a law enforcement unit of the educational agency or institution that were created by that law enforcement unit for the purpose of law enforcement;

c. in the case of persons who are employed by an educational agency or institution but who are not in attendance at such agency or institution, records made and maintained in the normal course of business which relate exclusively to such person in that person's capacity as an employee and are not available for use for any other purpose; or

d. records on a student who is 18 years of age or older, or is attending an institution of postsecondary education, which are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his professional or paraprofessional capacity, or assisting in that capacity, and which are made, maintained, or used only in connection with the provision of treatment to the student, and are not available to anyone other than persons providing such treatment, except that such records can be personally reviewed by a physician or other appropriate professional of the student's choice.

*Elementary School*—a school composed of any span of grades kindergarten through the eighth grade.

*Evaluation*—the in-depth process of review, examination, and interpretation of intervention efforts, test results, interviews, observations, and other assessment information relative to predetermined criteria.

*Exceptional Child*—a child who is evaluated in accordance with *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act* (R.S. 17:1941 et seq.) and who is determined according to *Bulletin 1508—Pupil Appraisal Handbook*, to have an exceptionality that adversely affects educational performance to the extent that special education is needed.

*Extracurricular Activities*—those activities which are not directly related to the program of studies, which are under the supervision and/or coordination of the school instructional staff, and which are considered valuable for the overall development of the student.

*Fine Arts*—those arts produced or intended primarily for beauty rather than utility, such as music, dance, drama, and the visual arts (i.e., drawing, painting, sculpture).

*Five-Year Educational Plan*—the plan developed by each student by the end of the eighth grade with the input of his/her family. The plan shall include a sequence of courses which is consistent with the student's stated goals for one year after graduation. Each student's *five-year educational plan* shall be reviewed annually thereafter by the student, parents, and school advisor, and revised as needed.

*Gifted*—children or youth who demonstrate abilities that give evidence of high performance in academic and intellectual aptitude.

*Grade-Level Expectations (GLE)*—the concepts and skills that students should master at the end of a grade or course.

*Homebound Student*—a student who is enrolled in regular education and who, as a result of healthcare treatment, physical illness, accident, or the treatment thereof, is temporarily unable to attend school, and who is provided instructional services in the home or hospital environment.

*Home Study Program (Approved)*—program in which an approved curriculum can be implemented under the direction and control of a parent or a tutor (i.e., court-appointed guardian under Louisiana law).

*Individualized Education Program (IEP)*—a written statement of specially designed instruction developed, reviewed and revised by a group of qualified education personnel and the parent/guardian for each student with an exceptionality in public schools.

*Industry-Based Certification*—a portable recognized credential (tangible evidence) that an individual has successfully demonstrated skill competencies on a core set of content and performance standards in a specific set of work related tasks, single occupational area, or a cluster of related occupational areas.

*Instructional Time*—shall include the scheduled time within the regular school day devoted to teaching courses outlined in the program of studies. *Instructional time* does not include such things as recess, lunch, change of class time, and parent-teacher conferences.

*Internship*—student *internships* are situations where students work for an employer for a specified period of time to learn about a particular industry or occupation. Students' workplace activities may include special projects, a sample of tasks from different jobs, or tasks from a single occupation. These may or may not include financial compensation.

*Language Arts*—a broad subject area which includes reading, literature, speaking, listening, oral and written



composition, English grammar, and spelling. (Foreign language may be included as part of the language arts program.)

*Least Restrictive Environment*—the educational placement of an exceptional child in a manner consistent with the *least restrictive environment* requirements in of *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act* and R.S. 17:1941 et seq.

*Local Educational Agency (LEA)*—a public board of education or other public authority legally constituted within the state either to provide administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, parish school district, or other political subdivision of the state. The term includes an educational service agency and any other public institution or agency having administrative control and direction of a public elementary or secondary school, including a public charter school that is established as an LEA under state law.

*Locally Initiated Elective*—an elective course developed and approved by an LEA according to the standards in §2315 and reported to the LDE.

*Minimum Standards for Career/Technical Education*—requirements that shall be met by local education governing agencies to be eligible for reimbursement in vocational education programs.

*Modification*—any technique that alters the work product in some way that makes it different from the work required of other students in the same class. A *modification* generally does change the work format or amount of work required of students. It encourages and facilitates academic success.

*Paraprofessional*—a person who is at least 18 years of age, possesses a certificate of good health signed by a physician, possesses an appropriate permit, and assists in the delivery of special educational services under the supervision of a special education teacher or other professional who has the responsibility for the delivery of services to exceptional children.

*Paraprofessional Training Unit*—a setting that may be used for the self-help training (toilet-training, dressing skills, grooming skills, feeding skills, and pre-academic readiness activities) of children with severe/profound disabilities or preschool children. A school-aged unit may be comprised of no more than six paraprofessionals. A preschool unit may be comprised of no more than four paraprofessionals. All units must be supervised directly by a certified special education teacher. Each paraprofessional must have a full quota of students (three) before an additional paraprofessional can be added to the unit. A *paraprofessional training unit* must be approved by the Office of Special Educational Services for the LDE in accordance with operational standards established by BESE.

*Pre-Kindergarten*—developmental programs for children ages 3-4, the minimum age being three by September 30 of the school year in which the student enters pre-kindergarten.

*Principal*—in a school, the chief administrative officer certified by the state Department of Education, except in the case of special schools in which the superintendent may be designated as the chief school administrator.

*Procedures*—specific actions or steps developed and required by the LDE to implement standards or regulations of BESE.

*Proficiency Exam*—an examination taken by a student to demonstrate mastery of a course they have not taken.

*Public School*—a school operated by publicly elected or appointed school officials and supported primarily by public funds.

*Public School System Accreditation*—an accreditation classification, which is based upon the fifth-year, on-site verification of the annual system and school reports, and which is granted by the state Department of Education.

*Pupil Appraisal Personnel*—professional personnel who meet the certification requirements for school personnel for such positions and who are responsible for delivery of pupil appraisal services included in *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act* (R.S. 17:1941 et seq.) and *Bulletin 1508—Pupil Appraisal Handbook*.

*School Building Level Committee*—a committee of at least three school level staff members. It shall be comprised of at least the principal/designee, a classroom teacher, and the referring teacher. It is suggested that other persons be included, such as the school counselor, reading specialist, master teacher, nurse, parents, pupil appraisal personnel, etc. This committee is a decision-making group that meets on a scheduled basis to solve problems or address concerns from teachers, parents, or other professionals on individual students who are experiencing difficulty in school because of academic and/or behavior problems. In most cases, for enrolled students, it is only through the SBLC that a referral can be made to pupil appraisal services for an individual evaluation.

*Senior Project*—a project that provides high school seniors with an opportunity to conduct in-depth research in an area of interest, and to demonstrate problem-solving, decision-making, and independent learning skills. The project consists of a research paper, a portfolio of project activities, a product, and an oral presentation to a panel of teachers and community leaders. During this process, the student is advised by a teacher serving as a senior project advisor and a product mentor who has experience in the student's field of study.

*Special Education*—specially designed instruction, at no cost to the parent, to meet the unique needs of the student with an exceptionality.

*Talented*—children or youth who give evidence of measurable abilities of unique talent in visual and/or performing arts.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6 and R.S. 17:7.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 31:1316 (June 2005), amended LR 39:

### **Family Impact Statement**

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption,

repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

#### **Poverty Impact Statement**

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? Yes.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

#### **Small Business Statement**

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### **Public Comments**

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., June 8, 2013, to Heather Cope, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope  
Executive Director

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School Personnel**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The estimated cost of publishing the proposed policy changes is \$200. The local educational agencies could increase or reduce expenses using the flexibility allowed by these proposed policy changes but it is not possible to predict what those costs or savings might be.

The proposed policy changes update current policies, correct technical errors, and provide more flexibility and autonomy for local schools and school districts.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections of state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There will be no costs or economic benefits to directly affected persons or non-governmental groups.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There will be no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1305#020

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## **NOTICE OF INTENT**

### **Student Financial Assistance Commission Office of Student Financial Assistance**

Scholarship/Grant Programs—TOPS Equivalent Courses  
(LAC 28:IV.703)

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend its Scholarship/Grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, R.S. 17:3048.1, R.S. 17:3048.5 and R.S. 17:3048.6).

This rulemaking adds AP Human Geography as an equivalent to World Geography in the Taylor Opportunity Program for Students (TOPS) core curriculum.

The proposed rule has no known impact on family formation, stability, or autonomy, as described in LSA-R.S. 49:972. The proposed rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq. The proposed rulemaking will have no impact on poverty as described in LSA-R.S. 49:973. (SG13146NI)

## **Title 28**

## **EDUCATION**

### **Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs**

### **Chapter 7. Taylor Opportunity Program for Students (TOPS) Opportunity, Performance, and Honors Awards**

#### **§703. Establishing Eligibility**

A - A.5.a.ii.(a). ...

(b). For students graduating in academic year (high school) 2006-2007 through the 2008-2009 academic year (high school), for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course	Equivalent (Substitute) Course
Physical Science	Integrated Science
Algebra I	Algebra I, Parts 1 and 2, Integrated Mathematics I
Applied Algebra IA and IB	Applied Mathematics I and II
Algebra I, Algebra II and Geometry	Integrated Mathematics I, II and III
Algebra II	Integrated Mathematics II
Geometry	Integrated Mathematics III
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III*, Advanced Mathematics II [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Pre-Calculus], Advanced Mathematics II [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math –Functions and Statistics]
Chemistry	Chemistry Com
Fine Arts Survey	Speech III and Speech IV (both units)
Western Civilization	European History
World Geography	AP Human Geography
Civics	AP American Government
*Applied Mathematics III was formerly referred to as Applied Geometry	

(c). For students graduating in academic year (high school) 2009-2010, for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course	Equivalent (Substitute) Course
Physical Science	Integrated Science
Algebra I	Algebra I, Parts 1 and 2, Integrated Mathematics I, Applied Algebra I
Applied Algebra IA and IB	Applied Mathematics I and II
Algebra I, Algebra II and Geometry	Integrated Mathematics I, II and III
Algebra II	Integrated Mathematics II
Geometry	Integrated Mathematics III, Applied Geometry
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III*, Advanced Math – Pre-Calculus**, Advanced Math – Functions and Statistics***
Chemistry	Chemistry Com
Fine Arts Survey	Speech III and Speech IV (both units)
Western Civilization	European History
World Geography	AP Human Geography
Civics	AP American Government
*Applied Mathematics III was formerly referred to as Applied Geometry	
**Advanced Math—Pre-Calculus was formerly referred to as Advanced Mathematics II	
***Advanced Math—Functions and Statistics was formerly referred to as Advanced Mathematics II	

(d). For students graduating in academic year (high school) 2010-2011 and after, for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course	Equivalent (Substitute) Course
Physical Science	Integrated Science
Algebra I	Algebra I, Parts 1 and 2, Integrated Mathematics I, Applied Algebra I
Applied Algebra IA and IB	Applied Mathematics I and II
Algebra I, Algebra II and Geometry	Integrated Mathematics I, II and III
Algebra II	Integrated Mathematics II
Geometry	Integrated Mathematics III, Applied Geometry
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III*, Advanced Math – Pre-Calculus**, Advanced Math – Functions and Statistics***
Chemistry	Chemistry Com
Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology or Agriscience I and II (both for 1 unit;	Anatomy and Physiology
Fine Arts Survey	Speech III and Speech IV (both units)
Western Civilization	European History
World Geography	AP Human Geography
Civics	AP American Government
*Applied Mathematics III was formerly referred to as Applied Geometry	
**Advanced Math—Pre-Calculus was formerly referred to as Advanced Mathematics II	
***Advanced Math—Functions and Statistics was formerly referred to as Advanced Mathematics II	

A.5.a.iii. - J.4.b.ii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 32:2239 (December 2006), LR 33:435 (March 2007), LR 33:2357 (November 2007), LR 33:2612 (December 2007), LR 34:1389 (July 2008), LR 35:228 (February 2009), LR 36:312 (February 2010), LR 36:490 (March 2010), LR 36:2269 (October 2010), LR 36:2855 (December 2010), LR 37:2987 (October 2011), LR 38:354 (February 2012), LR 39:

#### Public Comments

Interested persons may submit written comments on the proposed changes (SG13146NI) until 4:30 p.m., June 10, 2013, to Melanie Amrhein, Executive Director, Office of

Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

#### **Family Impact Statement**

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

#### **Poverty Impact Statement**

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973. (ST13145NI)

#### **Small Business Statement**

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

George Badge Eldredge  
General Counsel

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Scholarship/Grant Programs TOPS Equivalent Courses**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

In accordance with the requirements of R.S. 17:3048.1.C(2)(e) and with recommendation to approve by BESE and Regents, the proposed rule change modifies the Scholarship and Grant Program rules to add Advanced Placement (AP) Human Geography as an equivalent (substitute) course to the TOPS core curriculum World Geography course effective for students graduating during the 2006-2007 high school academic year and thereafter. There are no estimated implementation costs or savings to state or local governmental units.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Revenue collections of state and local governments will not be affected by the proposed changes.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There are no estimated effects on economic benefits to directly affected persons or non-governmental groups resulting from these measures.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There are no anticipated effects on competition and employment resulting from these measures.

George Badge Eldredge  
General Counsel  
1305#017

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Health and Hospitals Addictive Disorder Regulatory Authority**

#### **Counselor-In-Training (LAC 46:LXXX.707)**

Notice is hereby given that the Department of Health and Hospitals, Addictive Disorder Regulatory Authority, has exercised the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and intends to promulgate LAC 46:LXXX.707, Counselor-in-Training.

The Addictive Disorder Practice Act is found at R.S. 37:3386-3390.6. R.S. 37:3388.4(A)(5) and (12) authorizes

the Addictive Disorder Regulatory Authority to promulgate rules for administration and carrying out provisions of the Addictive Disorder Practice Act. These amendments are adopted in accordance therewith.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part LXXX. Substance Abuse Counselors**

#### **Chapter 7. Credentials for License/Certification/ Registration**

#### **§707. Counselor-In-Training (CIT)**

A. The ADRA shall recognize as a CIT each candidate who:

1. documents that they are actively pursuing a career tract to be a licensed, certified, or registered addiction counselor;

2. is at least 18 years of age;

3. is a legal resident of the United States;

4. is not in violation or pending violation of any ethical standards subscribed to by the ADRA or in the case of a credentialed mental health professional, with the appropriate regulatory board;

5. is not now, and has not been, engaged in addictive behaviors for at least a minimum of two years from the date the application is received;

6. has not been convicted of, pleaded guilty, or entered a plea of nolo contendere to a felony, unless the individual has applied for and been granted a waiver by the ADRA;

7. the applicant shall provide the ADRA with an original certified copy of his/her background check and criminal history;

8. reads and signs the ADRA professional and ethical accountability and responsibility form;

9. obtained/completed 180 substance abuse addiction specific educational clock hours;

10. obtain a certified clinical supervisor (CCS);

11. the CIT status is granted for a 12-month period. During the 12-month period the CIT shall comply with the ADRA guidelines for CIT status and, if required, sign an agreement acknowledging and consenting to the provisions of the guidelines;

12. CIT shall be allowed to maintain the CIT status for an aggregate period not to exceed 72 months;

13. provide three letters of recommendation attesting to the individual's fitness to be a counselor in training;

14. the ADRA shall develop counselor-in-training program guidelines and certified clinical supervisor guidelines and shall post the guidelines on the web site maintained by the ADRA. The guidelines shall be considered the minimum standards applicable to all CITs and CCSs. It shall be the obligation of all CITs and CCSs to regularly consult the website and review the guidelines to insure familiarity and compliance with the minimum standards.

B. On the effective date of this Rule change, these eligibility requirements apply to any individual that currently holds the Counselor-in-Training (CIT) status:

1. documents that they are actively pursuing a career tract to be a licensed, certified, or registered addiction counselor;

2. is at least 18 years of age;

3. is a legal resident of the United States;

4. is not in violation or pending violation of any ethical standards subscribed to by the ADRA or in the case of a credentialed mental health professional, with the appropriate regulatory board;

5. is not now, and has not been, engaged in addictive for at least a minimum of two years from the date the application is received

6. has not been convicted of, pleaded guilty, or entered a plea of nolo contendere to a felony, unless the individual has applied for and been granted a waiver by the ADRA; the applicant shall provide the ADRA with a certified copy of his/her background check and criminal history;

7. reads and signs the ADRA professional and ethical accountability and responsibility form;

8. provide documentation verifying the completion of 180 substance abuse addiction specific educational clock hours that are required; if the total 180 hours have not been completed, the CIT must provide documentation verifying the total number of hours that have been completed thus far, after which time, the CIT has 12 months from the renewal date to complete the remaining hours;

9. maintain a certified clinical supervisor (CCS);

10. the CIT status is granted for a 12-month period. During the 12-month period the CIT shall comply with the ADRA guidelines for CIT status and, if required, sign an agreement acknowledging and consenting to the provisions of the guidelines;

11. CIT shall be allowed to maintain the CIT status for an aggregate period not to exceed 72 months;

12. assess with the CCS which of the 123 competencies that have been demonstrated thus far and at the time of the renewal provide documentation verifying such completion;

13. the ADRA shall develop counselor-in-training program guidelines and certified clinical supervisor guidelines and shall post the guidelines on the website maintained by the ADRA. The guidelines shall be considered the minimum standards applicable to all CITs and CCSs. It shall be the obligation of all CITs and CCSs to regularly consult the website and review the guidelines to insure familiarity and compliance with the minimum standards.

C. Once the counselor-in-training (CIT) status is issued, the individual must meet the following criteria to maintain the status:

1. maintain good standing with the ADRA Board per the code of ethical responsibility and accountability;

2. gain hours 300 of direct clinical supervision under a certified clinical supervisor (CCS);

3. depending on the credential working towards, gain 2000, 4000, or 6000 hours of supervised work experience under the supervision of any credentialed addiction professional or under the supervision of an agency;

4. accumulate a minimum of 20 hours of continuing education hours specific or related to substance abuse each year and provide documentation with annual renewal;

5. keep letters of reference, background checks and contact/demographic information current with the ADRA office. Any changes in supervision and/or contact information must be reported to the ADRA as soon as the changes become effective;

6. maintained supervision under a certified clinical supervisor (CCS) and/or credentialed addiction professional

approved of by the ADRA. This supervision is described as taking two distinct forms:

a. direct clinical supervision (face-to-face) that may be accumulated at a rate of a minimum of 1 hour per week;

b. supervised work experience that may be accumulated at a maximum of 2000 hours in any calendar year (total required varies by credential);

7. in coordination with the CCS, develop a learning plan that incorporates acquiring the competences outlined in the Substance Abuse and Mental Health Services Administration (SAMHSA) Technical Assistance Publication Series for Addiction Counseling Competencies (TAP 21) (attached for reference). This progressive process must be documented in the learning plan annually as a requirement of the renewal of the status;

8. all 123 competencies must be verified by the CCS prior to the CIT process being deemed complete.

#### D. Scope of Work

1. The CIT status is granted for 12-month period.

2. The CIT shall be allowed to maintain the CIT status for no more 72 months (6 years).

3. CIT shall not practice independently before acquiring the 300 hours of direct clinical supervision.

4. After the CIT has completed the 300 hours of direct clinical supervision, he/she may work independently in the following four core functions only if a credentialed addiction professional is in the building or available by phone for consultation and supervision:

a. screening;

b. intake;

c. orientation;

d. client education.

5. After the CIT has completed the 300 hours of direct clinical supervision, he/she may continue to work in the remaining eight core functions under the direct supervision of a credentialed addiction professional as long as a CCS or a credentialed addiction professional is in the building or available by phone for consultation and supervision, and only after the current CCS on file with the ADRA has documented and verified with the ADRA that the CIT is capable of performing that core function AND has completed, with documentation and verification of, the TAP 21 competencies for that specific practice dimension. All 123 competencies must be signed-off-on by the CCS on file with the ADRA prior to the CIT testing:

a. assessment;

b. treatment planning;

c. counseling;

d. referral;

e. crisis intervention;

f. report and record keeping;

g. consultation;

h. case management.

6. In coordination with the CCS, develop a learning plan that incorporates acquiring the competences outlined in TAP 21, attached for reference. This progressive process must be documented in the learning plan at least annually as a requirement of the renewal of the status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3388.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Addictive Disorders, Addictive Disorder Regulatory Authority, LR 31:651 (March 2005), amended

by the Department of Health and Hospitals, Addictive Disorder Regulatory Authority, LR 39:

#### **Family Impact Statement**

The proposed Rule changes have no impact on family formation, stability or autonomy, as described in R.S. 49:972.

#### **Poverty Impact Statement**

This proposed Rule has no impact as described in R.S. 49:973.

#### **Public Comments**

Interested persons may submit written comments to LaMiesa D. Bonton, Executive Director, Addictive Disorder Regulatory Authority, 4919 Jamestown Avenue, Suite 203, Baton Rouge, LA 70808. All comments must be received no later than 5 p.m. on June 10, 2013.

LaMiesa D. Bonton  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Counselor-In-Training**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Other than the Rule publication costs, which are estimated to be \$164 in FY 13, it is not anticipated that the proposed Rule amendments will result in any material costs or savings to the Addictive Disorder Regulatory Authority (ADRA) or any state or local governmental unit.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no anticipated effect on revenue collections of state or local governmental units as result of this Rule change.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The Rule changes to §707 are to clarify current requirements for Counselors-In-Training (CIT). For example, under the previous Rule, the CIT is responsible for ensuring that his or her educational preparation is comprehensive and includes clinical training, but the specifics are not defined. The Rule change states specifically that a CIT will have to complete 180 hours of substance abuse addiction specific education and obtain a Certified Clinical Supervisor to meet these requirements. The Rule changes further clarify that the requirements that apply to CIT candidates will also apply to individuals that currently hold CIT status. Since these changes are primarily for clarification, there is no anticipated fiscal impact.

Finally, the Rule change sets forth mandatory criteria by which CITs maintain and complete their CIT status. Included in these criteria is the requirement that CITs complete the 123 competencies outlined by the Substance Abuse and Mental Health Services Administration. Under the previous rule, the 123 competencies were recommended and expected for a CIT, but not enforced; however, they will be required under the rule change. The ADRA does not anticipate a significant fiscal impact to CITs as a result of this rule change since they were expected to fulfill this obligation under the previous Rule. However, current CITs that are not training under the 123 competencies, a new learning plan will have to be developed with his or her Certified Clinical Supervisor in order to complete the CIT process.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no anticipated effect on competition and employment as a result of this rule change.

LaMiesa D. Bonton  
Executive Director  
1305#013

John D. Carpenter  
Legislative Fiscal Officer  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Health and Hospitals Board of Dentistry**

Continuing Education (LAC 46:XXXIII.1605 and 1619)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.1605 and 1619.

The Louisiana State Board of Dentistry is repealing §1619 and amending §1605. The board is taking this action to clarify and organize the Louisiana Dental Practice Act. Section 1619 is being repealed because the penalties enumerated in the Rule are found in R.S. 37:780(B) and incorporated in §1605. The board is amending §1605 to include certain provisions of former §1619 and to ensure that all penalty provisions for the violation of continuing education provisions are in one Rule.

#### **Title 46**

#### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part XXXIII. Dental Health Professions**

#### **Chapter 16. Continuing Education Requirements**

#### **§1605. Penalties**

A. ...

B.1. All continuing education not completed on time shall be completed no later than August of the following calendar year and shall not count toward the continuing education requirements of the subsequent renewal period.

2. A second violation of the continuing education requirements may be reported to the National Practitioner Data Bank, whereas the first violation will not.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:760(8), (13).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:661 (June 1994), amended LR 39:

#### **§1619. Violations**

Repealed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:760(8) and (13).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR:26:1613 (August 2000), repromulgated LR 27:1894 (November 2001), repealed LR 39:

#### **Family Impact Statement**

There will be no family impact in regard to issues set forth in R.S. 49:972.

### Poverty Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

### Public Comments

Interested persons may submit written comments on these proposed Rule changes to Peyton B. Burkhalter, Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, LA 70130. Written comments must be submitted to and received by the board within 20 days of the date of the publication of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of the publication of this notice.

Peyton B. Burkhalter  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Continuing Education

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be a one-time cost of \$500 in FY 13 for publication of the proposed Rules in the *Louisiana Register*. There are no estimated costs or savings to local governmental units from the proposed Rules.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections by state or local governmental units as a result of this Rule change.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The Louisiana State Board of Dentistry is repealing LAC 46:XXXIII.1619 and amending LAC 46:XXXIII.1605. The board is taking this action to clarify and organize the Louisiana Dental Practice Act. LAC 46:XXXIII.1619 is being repealed because the penalties enumerated in the Rule are found in R.S. 37:780(B) and incorporated in LAC 46:XXXIII.1605. The board is amending LAC 46:XXXIII.1605 to include certain provisions of former LAC 46:XXXIII.1619 and to ensure that all penalty provisions for the violation of continuing education provisions are in one Rule.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Peyton B. Burkhalter  
Executive Director  
1305#071

John D. Carpenter  
Legislative Fiscal Officer  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Health and Hospitals Board of Dentistry

Documentation Filing  
(LAC 46:XXXIII.116, 911, and 1403)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department

of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.116, 911, and 1403. The Louisiana state Board of Dentistry is amending the following rules to clarify and simplify the filing of documents with the board. Specifically, the board is requiring that documents submitted for consideration shall be filed with the board no later than 30 days in advance of the next board meeting for consideration at the meeting. In addition, the rules are being changed to allow for various forms of delivery including by electronic means.

### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XXXIII. Dental Health Professions

#### Chapter 1. General Provisions

##### §116. Reconsideration of Adverse Sanctions

A. Any person wishing to initiate an application for reconsideration of an adverse disciplinary decision of the board or consent decree must make the request in writing and it shall be received by the board at its office no later than 30 days prior to the next scheduled meeting of the board in order for it to be placed on the board agenda for consideration. The request for reconsideration of adverse sanctions shall be filed with the board in conformity with LAC 46:XXXIII.911.

B. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1113 (June 1998), amended LR 26:1612 (August 2000), repromulgated LR 27:1890 (November 2001), amended LR 27:1893 (November 2001), LR 36:63 (January 2010), LR 39:

#### Chapter 9. Formal Adjudication

##### §911. Pleadings; Motions; Service

A. All pleadings, motions or other papers permitted or required to be filed with the board shall be filed by personal delivery at or by mail to the office of the board or by email, in digital format, to the board. Pleadings, motions and other papers filed in pending adjudication proceedings shall certify that, by the same method of delivery, the same be concurrently served upon complaint counsel designated by the complaint, if filed by or on behalf of respondent, or upon respondent, through counsel of record if any, if filed by complaint counsel.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4), (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1318 (October 1993), amended LR 39:

#### Chapter 14. Rulemaking, Declaratory Opinions and Rules

##### §1403. Forms

A. - C. ...

D. All petitions or documents filed with the board pursuant to this Rule shall be served upon the board in conformity with LAC 46:XXXIII.911. The petition or document filed pursuant to this Rule shall be received by the board no later than 30 days prior to the next scheduled meeting of the board in order for it to be placed on the board agenda for consideration.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1322 (October 1993), amended LR 24:1117 (June 1998), LR 25:1477 (August 1999), LR 39:

#### **Family Impact Statement**

There will be no family impact in regard to issues set forth in R.S. 49:972.

#### **Poverty Impact Statement**

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

#### **Public Comments**

Interested persons may submit written comments on these proposed Rule changes to Peyton B. Burkhalter, Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, LA 70130. Written comments must be submitted to and received by the board within 20 days of the date of the publication of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of the publication of this notice.

Peyton B. Burkhalter  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Documentation Filing**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There will be a one-time cost of \$500 in FY 13 for publication of the proposed Rules in the *Louisiana Register*. There are no estimated costs or savings to local governmental units from the proposed Rules.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections by state or local governmental units as a result of this Rule change.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The Louisiana State Board of Dentistry is amending the following Rules to clarify and simplify the filing of documents with the board. Specifically, the board is requiring that documents submitted for consideration shall be filed with the board no later than 30 days in advance of the next board meeting for consideration at the meeting. In addition, the Rules are being changed to allow for various forms of delivery including by electronic means. Therefore, these Rule changes will not have any economic impact on the licensees and/or the licensees will not incur additional costs.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no estimated effect on competition and employment.

Peyton B. Burkhalter  
Executive Director  
1305#070

John D. Carpenter  
Legislative Fiscal Officer  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Health and Hospitals Board of Dentistry**

Fees—Dentists, Dental Hygienists  
(LAC 46:XXXIII.415, 419)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.415 and 419.

The Louisiana State Board of Dentistry is setting fees for licensees to fund the Dental Health Professional Monitoring Program.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part XXXIII. Dental Health Professions**

#### **Chapter 4. Fees and Costs**

#### **Subchapter C. Fees for Dentists**

#### **§415. Licenses, Permits, and Examinations (Dentists)**

A. - A.24. ...

25. Annual fee to support well-being program—\$25

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:795.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR 16:566 (June 1990), LR 18:741 (July 1992), LR 23:1526 (November 1997), LR 24:1115 (June 1998), LR 25:1478 (August 1999), LR 26:691 (April 2000), LR 28:1778 (August 2002), LR 32:243 (February 2006), LR 33:846 (May 2007), LR 34:2564 (December 2008), repromulgated LR 35:68 (January 2009), amended LR 37:2150 (July 2011), LR 37:3515 (December 2011) repromulgated LR 38:356 (February 2012), amended LR 39:89 (January 2013), LR 39:

#### **Subchapter D. Fees for Dental Hygienists**

#### **§419. Licenses, Permits and Examinations (Dental Hygienists)**

A. - A.13. ...

14. Annual fee to support well-being program—\$15

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760 (8), R.S. 37:768, and R.S. 37:795.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR 16:566 (June 1990), LR 18:741 (July 1992), LR 23:1527 (November 1997), LR 24:1115 (June 1998), LR 25:1478 (August 1999), LR 26:691 (April 2000), LR 28:1778 (August 2002), LR 32:243 (February 2006), LR 33:846 (May 2007), LR 34:2564 (December 2008), repromulgated LR 35:68 (January 2009), amended LR 37:590 (February 2011), LR:37:2151 (July 2011), LR 39:

#### **Family Impact Statement**

There will be no family impact in regard to issues set forth in R.S. 49:972.

#### **Poverty Statement**

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.



## Public Comments

Interested persons may submit written comments on these proposed Rule changes to Peyton B. Burkhalter, Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, LA 70130. Written comments must be submitted to and received by the board within 20 days of the date of the publication of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of the publication of this notice.

Peyton B. Burkhalter  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Fees—Dentists, Dental Hygienists

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be a one-time cost of \$250 in FY 13 and \$250 in FY 14 for publication of the proposed Rules in the *Louisiana Register*. According to Act 407 of the 2012 Legislative Session, the board shall provide for the identification, monitoring, assistance with, and procurement of treatment for licensees suffering from substance abuse, chemical dependency, psychiatric conditions, or physical deficiencies which may interfere with their ability to practice dentistry or dental hygiene with reasonable skill and safety. Beginning in FY 14 and based on the biennial renewal period, this program will cost approximately \$104,650 in FY 14 and \$80,700 in FY 15, which is an average annual cost of \$92,675.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revisions to LAC 46:XXXIII.415 and 419 will increase the initial application, renewal and reinstatement of dental and dental hygiene licenses by \$25 per year for dentists and \$15 per year for dental hygienists in order to operate the substance abuse treatment program in Act 407 of the 2012 Legislative Session. As a result, the board will increase revenue by \$104,650 in FY 14 and \$80,700 in FY 15 and will cycle every two years with licensure renewals.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Revisions to LAC 46:XXXIII.415 and 419 will impact all licensees by increasing their initial application, renewal or reinstatement applications by the amount of the fees set forth in the Rules. Otherwise, there are no other fee changes and no additional impact to directly affected persons as a result of the Rule changes.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of the proposed Rule changes.

Peyton B. Burkhalter  
Executive Director  
1305#069

John D. Carpenter  
Legislative Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health and Hospitals Board of Dentistry

#### Patients' Records (LAC 46:XXXIII.318)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.318. There will be no family impact in regard to issues set forth in R.S. 49:972.

The Louisiana State Board of Dentistry is repealing .318 because the legislature revised LRS 37:757 in the 2012 regular session to require the maintenance, preservation and production of patients' records in accordance with LRS 40:1299.96. Therefore, the Rule is redundant to the referenced statute.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XXXIII. Dental Health Professions

#### Chapter 3. Dentists

#### §318. Patients' Records

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8) and R.S. 40:1299.96.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1114 (June 1998), amended LR 28:1777 (August 2002), LR 38:1960 (August 2012), repealed LR 39:

#### Family Impact Statement

There will be no family impact in regard to issues set forth in R.S. 49:972.

#### Poverty Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

#### Public Comments

Interested persons may submit written comments on these proposed Rule changes to Peyton B. Burkhalter, Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, Louisiana 70130. Written comments must be submitted to and received by the board within 20 days of the date of the publication of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of the publication of this notice.

Peyton B. Burkhalter  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Patients' Records**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There will be a one-time cost of \$500 in FY 13 for publication of the proposed Rules in the *Louisiana Register*. There are no estimated costs or savings to local governmental units from the proposed Rules.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections by state or local governmental units as a result of this Rule change.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The Louisiana State Board of Dentistry is repealing 46:XXXIII.318 because the legislature revised the dental records statute under R.S. 37:757 in the 2012 regular session to require the maintenance, preservation and production of patients' records in accordance with other state medical record fees under R.S. 40:1299.96. There are slight fee changes under R.S. 40:1299.96 (such as the max handling charge increasing from \$7.50 to \$25 and copying charges changing from \$0.50 to \$0.25 for each page over 350 pages), which may impact dentist revenues upon provision of the requested records. Persons requesting the records may also see slight fee increases or decreases depending on the type of files requested as a result of the adoption of R.S. 40:1299.96 and repealing 46:XXXIII.318.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no estimated effect on competition and employment.

Peyton B. Burkhalter  
Executive Director  
1305#072

John D. Carpenter  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Dentistry**

Temporary Licenses (LAC 46:XXXIII.120)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.120.

The Louisiana State Board of Dentistry is amending Rule §120 in order to comply with R.S. 37:3650 enacted by the legislature in the 2012 regular session. The Rule incorporates the required provisions to allow for temporary licensure to military trained applicants and their spouses.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XXXIII. Dental Health Professions**

**Chapter 1. General Provisions**

**§120. Temporary Licenses**

A. Temporary Licenses for Dentists. In order to protect the public and to avoid abuses of the exemption granted in R.S. 37:752(8), the board will not issue temporary dental

licenses except to those applicants applying for a license by credentials under the provisions of R.S. 37:3650 upon their application and payment of applicable fees.

B. Temporary Licenses for Dental Hygienists. The board may issue temporary dental hygiene licenses to the following applicants:

1. those dental hygiene license by credentials applicants who have met all criteria specified in §706 prior to the next regularly scheduled board meeting and have requested and paid all fees associated with a temporary dental hygiene license; or

2. those dental hygiene license by credentials applicants who are applying under the provisions of R.S. 37:3650 upon their application and payment of applicable fees.

C. Under the provisions of R.S. 37:3650, military trained dentists or hygienists applying for a license by credentials who do not meet the practice requirements specified in §306.A.4.a-d or §706.A.4.a-b may apply for a temporary license in order to fulfill the practice requirements. Applicants must first apply for a license by credentials by meeting all other requirements listed in §306 or §706 and show their eligibility by providing the following documentation:

1. proof of good standing of current, nonrestricted license in another jurisdiction;

2. proof that there has been no disciplinary action against the applicant's professional license in any jurisdiction;

3. proof of any military specialty training; and

4. proof of current active duty status and orders to be stationed in Louisiana; or

5. proof of honorable discharge within the 12 months immediately preceding the date of license by credentials application.

D. Under the provisions of R.S. 37:3650, the spouse of an active duty military member applying for a license by credentials who does not meet the practice requirements specified in §306.A.4.a-d or §706.A.4.a-b may apply for a temporary license in order to fulfill the practice requirements. Applicants must first apply for a license by credentials by meeting all other requirements listed in §306 or §706 and show their eligibility by providing the following documentation:

1. proof of good standing of current, nonrestricted license in another jurisdiction;

2. proof that there has been no disciplinary action against the applicant's professional license in any jurisdiction;

3. proof of military member's current active duty status;

4. proof of current marriage to the active military member; and

5. proof of military member's orders to be stationed in Louisiana.

E. Any application for a temporary license shall be accompanied by the applicant's license by credentials application and applicable fees.

F. Temporary license holders must practice within the state of Louisiana.

G. Temporary licenses granted under this Section shall be issued for no longer than six months. The licensee must

submit documentation of satisfaction of the practice requirement to renew any temporary license for a subsequent six-month period.

H. In no case shall a temporary dental license be valid for longer than three years.

I. In no case shall a temporary dental hygiene license be valid for longer than one year.

J. Temporary licenses may be revoked:

1. for any reason set forth in R.S. 37:776 or R.S. 37:777;

2. should the board deny the application for any reason set forth in §307 or §707; or

3. for failure to satisfactorily prove the licensee's practice in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1114 (June 1998), amended LR 26:1612 (August 2000), repromulgated LR 27:1893 (November 2001), amended LR 33:2652 (December 2007), amended LR 33:2652 (December 2007), LR 38:2771 (November 2012), LR 39:

#### **Family Impact Statement**

There will be no family impact in regard to issues set forth in R.S. 49:972.

#### **Poverty Statement**

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

#### **Public Comments**

Interested persons may submit written comments on these proposed Rule changes to Peyton B. Burkhalter, Executive Director, LA State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, LA 70130. Written comments must be submitted to and received by the board within 20 days of the date of the publication of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of the publication of this notice.

Peyton B. Burkhalter  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Temporary Licenses**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There will be a one-time cost of \$500 in FY 13 for publication of the proposed Rules in the *Louisiana Register*. There are no estimated costs or savings to local governmental units from the proposed Rules.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The Louisiana State Board of Dentistry is amending 46:XXXIII.120 in order to comply with R.S. 37:3650 enacted by the legislature in the 2012 regular session. The Rule incorporates the required provisions to allow for temporary licensure to military trained applicants and their spouses. The board will collect, at minimum, \$100 per military or spousal applicant for the temporary permit for dentists and dental hygienists.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Military applicants and their spouses will be required to pay the \$100 fee for the temporary permit under the Rule changes.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no estimated effect on competition and employment.

Peyton B. Burkhalter  
Executive Director  
1305#068

John D. Carpenter  
Legislative Fiscal Officer  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Health and Hospitals Board of Nursing**

#### **Disaster Relief Special Health Care Event Temporary Permits (LAC 46:XLVII.3328)**

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:918, that the Louisiana State Board of Nursing propose to amend Chapter 33 of its rules, in particular, by amending section 3328, in order to provide a mechanism for board staff to issue Special Healthcare Event Temporary Permits to out of state Registered Nurses (RN) and Advanced Practice Registered Nurses (APRN), who are not currently licensed in the state of Louisiana, to perform nursing services in the state of Louisiana at free special healthcare events for the uninsured. RNs and APRNs applying for Special Healthcare Temporary Permits will be required to meet the same requirements for disaster relief permits, including but not limited to current, unrestricted license(s) in good standing by the licensing authority of another state, submission of a picture identification and proof of practice agreement (APRNs), and verification of employment. The permit will be issued upon such terms, conditions, limitations or restrictions to time, place, nature and scope of practice as are, in the judgment of the board, deemed necessary or appropriate to its responsibilities under law. The Special Health Care Temporary Permit is issued free of charge and will be valid during the date(s) of the event and as approved by the board.

#### **Title 46**

### **PROFESSIONAL OCCUPATIONAL STANDARDS**

#### **Part XLVII. Nurses**

#### **Subpart 2. Registered Nurses**

#### **Chapter 33. General**

#### **Subchapter C. Registration and Registered Nurse Licensure**

#### **§3328. Disaster Relief Special Health Care Event Temporary Permits**

A. The board may issue disaster relief temporary permits to an individual to practice as a registered nurse or advanced practice registered nurse to provide gratuitous or non-gratuitous nursing services in this state during a public health emergency, and for such periods thereafter as approved by the board.

B. The board may issue a special healthcare event temporary permit to an individual to practice as a registered nurse or advanced practice registered nurse to provide services in Louisiana, during a gratuitous special healthcare event.

C. Disaster relief permits and special healthcare event temporary permits may be issued provided such individual:

1. holds a current, unrestricted license in good standing issued by the licensing authority of another state to practice as a registered nurse or as an advanced practice registered nurse;

2. presents or causes to be presented to the board:

a. picture identification;

b. proof of current licensure in another state;

c. a completed disaster permit affidavit or application for special healthcare event temporary permit form;

d. a completed verification of employment for disaster or special healthcare event form; and

e. a collaborative practice agreement and required documents (advanced practice registered nurses).

D. A disaster relief or special healthcare event temporary permit may be issued upon such terms, conditions, limitations or restrictions as to time, place, nature, and scope of practice as are, in the judgment of the board, deemed necessary or appropriate to its responsibilities under law.

E. The disaster relief permit will be valid for 60 days from the date of issuance and may be extended for additional 60 day periods as determined appropriate and necessary by the board provided all condition prerequisites to original issuances are satisfied.

F. The Special Healthcare Event Temporary Permit will be valid during the dates(s) of the event and as approved by the board.

G. If allegations of acts or omissions which constitute grounds for disciplinary action as defined in R.S. 37:911 et seq., or any rule promulgated by the board is received during the permit interval, the disaster relief permit shall be recalled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918, 919 and 920.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 33:460 (March 2007), amended LR 39:

#### **Family Impact Statement**

1. What effect will this Rule have on the stability of the family? The proposed Rule will not affect the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed Rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This Rule will not affect the functioning of the family.

4. What effect will this have on family earnings and family budget? The proposed Rule will not affect the family earnings or family budget.

5. What effect will this have on behavior and personal responsibility of children? This Rule will not affect the behavior or personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, family or local government may not perform any of the functions outlined in the proposed Rule.

#### **Poverty Impact Statement**

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

#### **Small Business Statement**

It is anticipated that the proposed Rule will not have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed Rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

#### **Public Comments**

All interested persons may submit written comments until 5:00 p.m., June 10, 2013 to Barbara L. Morvant, Executive Director, Louisiana State Board of Nursing, 17373 Perkins Road, Baton Rouge, LA 70810.

Barbara Morvant  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Disaster Relief Special Health Care Event Temporary Permits**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Other than publication costs associated with the rule changes, which are estimated to be \$164.00 in FY 13, it is not anticipated that state or local governmental units will incur any other costs or savings as a result of promulgation of the proposed rule. The rule addition to sections 3328 provides a mechanism for board staff to issue temporary permits to out of state Registered Nurses (RNs) and Advanced Practice Registered Nurses (APRNs), who are not currently licensed in the state of Louisiana, to perform nursing services in the state of Louisiana at free special healthcare events for the uninsured. This rule does not require an increase or decrease in workload responsibilities to the Board.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that implementation of the proposed rule will not affect state or local governmental revenue collections as there are no new or eliminated fees introduced with the rule changes.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

It is anticipated that implementation of the proposed rule will not result in costs and/or economic benefits to any person or non-governmental groups since there is no fee charged for the temporary permit.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

It is anticipated that implementation of the proposed rule will not result in any effect on competition or employment.

Barbara Morvant  
Executive Director  
1305#030

John D. Carpenter  
Legislative Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Office of the Governor Board of Architectural Examiners

Architect Emeritus (LAC 46:I.1539)

Notice is hereby given in accordance with the provisions of R.S. 49:950 et seq., and through the authority granted in R.S. 37:144(C), that the Board of Architectural Examiners proposes to adopt LAC 46:I.1539 to provide concerning the title which an architect who has been granted emeritus status may use in Louisiana. The existing board rules do not provide concerning such title.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part I. Architects

#### Chapter 15. Titles, Firm Names, and Assumed Names §1539. Architect Emeritus

A. An architect who has received emeritus status from the board pursuant to §1105.E should use the title “architect emeritus.”

Allowed	Not Allowed
John Smith, Architect Emeritus (if John Smith has received emeritus status from the board pursuant to Rule §1105.E)	John Smith, Architect (if John Smith has received emeritus status from the board pursuant to Rule §1105.E)

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 39:

#### Family Impact Statement

The proposed Rule will have no known impact on family formation, stability, or autonomy, as described in R.S. 40:972.

#### Poverty Impact Statement

The proposed Rule will have no known impact on child, individual, or family poverty in relation to individual or community asset development, as described in R.S. 49:973.

#### Public Comments

Interested persons may submit written comments on this proposed Rule to Ms. Mary “Teeny” Simmons, Executive Director, Board of Architectural Examiners, 9625 Fenway Avenue, Suite B, Baton Rouge, LA 70809. Comments will be accepted until 4:30 p.m. on June 10, 2013.

Mary “Teeny” Simmons  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Architect Emeritus

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs (savings) to state or local governmental units associated with the proposed rule change. The proposed rule change merely provides clarity as to the title of “Architect Emeritus”, which should be used by a registrant who has obtained emeritus status from the Board of Architectural Examiners.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated effects on revenue collections of state or local governmental units associated with the proposed rule change.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups associated with the proposed rule change. The proposed rule change does not change the criteria or procedure for obtaining emeritus status by a registrant.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no estimated effects on competition or employment associated with the proposed rule change.

Mary “Teeny” Simmons  
Executive Director  
1305#012

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Office of the Governor Board of Architectural Examiners

Individuals Registered in Other States and  
Military-trained Architects and Architect Spouses of  
Military Personnel (LAC 46:I.1103 and 1109)

Notice is hereby given in accordance with the provisions of R.S. 49:950 et seq., and through the authority granted in R.S. 37:144(C), that the Board of Architectural Examiners proposes to amend LAC 46:I.1103.A and adopt LAC 46:I.1109 to provide procedures for the licensing of military-trained architects and architect spouses of military personnel. The existing rule, §1103.A, currently provides that the exclusive means for an individual registered in another state who seeks to be registered in Louisiana is the submission to the board of an NCARB (blue cover) certificate. During the 2012 Legislative Session, the legislature enacted Act 276 of 2012 (R.S. 37:3651), which provides a method for the licensing of military-trained applicants and spouses of military personnel. Act 276 of 2012 mandates that professional licensing boards adopt rules implementing its provisions, and the proposed rules do so.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part I. Architects

#### Chapter 11. Certificates

#### §1103. Individuals Registered in Other States

A. The exclusive means for an individual registered in another state(s) seeking to be registered in Louisiana is the submission to the board of an NCARB (blue cover) certificate, except in the cases of military-trained architect applicants or architect spouses of military personnel who satisfy the requirements of R.S. 37:3651 and in §1109 below.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 29:563 (April 2003), amended LR 39:

**§1109. Military-trained Architects and Architect Spouses of Military Personnel**

A. A military-trained applicant who demonstrates all of the following to the satisfaction of the board and pays the fee applicable to all applicants seeking initial licensure shall be granted registration and a license to practice architecture in Louisiana:

1.a. if while in active United States military service, the applicant completed and passed a program of training in architecture conducted by a branch of the United States military, was awarded a military occupational specialty in architecture, and thereafter satisfactorily practiced architecture at a level that was substantially equivalent to or exceeded the education, examination and training requirements of R.S. 37: 146 and these rules for licensure as an architect;

b. the applicant engaged in the active practice of architecture;

c. the applicant has not been disciplined by any military branch or any jurisdiction for any act that would have constituted grounds for refusal, suspension, or revocation of a license to practice architecture in this state at the time the act was committed; and

d. the applicant has not received a dishonorable discharge from the military.

2.a. To demonstrate the above requirements, the applicant shall furnish to the board:

i. official military documents describing the content and nature of the military training program in architecture and evidence of the applicant completing and passing such program;

ii. official military documents describing the military service requirements which must be met to be awarded a military occupational specialty in architecture sufficient for the board to assess the equivalence of such requirements to the licensure requirements of Louisiana;

iii. sworn statement or statements by superior officers of the applicant attesting that the applicant has satisfactorily engaged in the active practice of architecture in the military;

iv. official military or other documents demonstrating that the applicant has not been disciplined by any military branch or any jurisdiction for any act that would have constituted grounds for refusal, suspension, or revocation of a license to practice architecture in Louisiana; and

v. official military documents showing that the applicant received an honorable discharge from the military.

(a). The board may request additional information.

B. A military-trained applicant who meets the requirements set forth in Subparagraphs 1109.A.1.a-d above to the satisfaction of the board and pays the fee applicable to all applicants seeking initial licensure shall be granted registration and a license to practice architecture in this state if the applicant holds a current license in good standing to practice architecture in any other United States jurisdiction and the requirements for licensure of that jurisdiction at the time the applicant was licensed are substantially equivalent to or exceed the requirements for licensure, certification, or registration in Louisiana.

C. An applicant who is a military spouse and who demonstrates all of the following to the satisfaction of the board and pays the fee applicable to all applicants seeking initial licensure shall be granted registration and a license to practice architecture in this state:

1.a. the military spouse holds a current license in good standing to practice architecture in any other United States jurisdiction and the requirements of that jurisdiction for licensure are substantially equivalent to or exceed the requirements for licensure in the state at the time the applicant was licensed;

b. the military spouse demonstrates competence in the practice of architecture, such as having completed continuing education units or recent experience;

c. the military spouse has not been disciplined by any jurisdiction for any act that would constitute grounds for refusal, suspension or revocation of a license to practice architecture in this state at the time the act was committed; and

d. the military spouse is in good standing and has not been disciplined by the jurisdiction or agency that issued the license to the military spouse.

2. A military spouse is a person wed to an individual who has not been dishonorably discharged and who is serving on active duty in a branch of the United States military at the time the spouse applies to the board for licensure.

D. A military-trained applicant appearing to the board to meet the requirements set forth in Subsection 1109.B above and a military spouse appearing to the board to meet the requirements of Subsection 1109.C above shall be issued a temporary practice permit allowing such applicant to practice architecture pending completion of the board's receipt and action upon all appropriate documentation supporting such application, which board action may include the granting or denial of licensure or a request for additional information concerning such application. Any such temporary practice permit shall only permit the applicant to practice architecture in Louisiana in accordance with all applicable laws and these rules, and the applicant shall be subject to all of the requirements of a fully licensed architect in connection with such practice including the requirements to pay all fees and to conform to all laws and rules, including the continuing education requirements of these rules. In processing applications for licensure under the provisions of this Section 1109, the board shall accord priority to the holders of temporary practice permits in the priority such temporary practice permits have been granted.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:144.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 39:

**Family Impact Statement**

The proposed rules will have no known impact on family formation, stability, or autonomy, as described in R.S. 40:972.

**Poverty Impact Statement**

The proposed rules will have no known impact on child, individual, or family poverty in relation to individual or community asset development, as described in R.S. 49:973.

## Public Comments

Interested persons may submit written comments on this proposed Rule amendment to Ms. Mary “Teeny” Simmons, Executive Director, Board of Architectural Examiners, 9625 Fenway Avenue, Suite B, Baton Rouge, LA 70809. Comments will be accepted until 4:30 p.m. on June 10, 2013.

Mary “Teeny” Simmons  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Individuals Registered in Other States and Military-trained Architects and Architect Spouses of Military Personnel

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs (savings) to state or local governmental units associated with the proposed rule change. Act 276 of 2012 Regular Legislative Session provides that military-trained architects or architects who are the spouses of military personnel who meet the requirements shall be granted a license to practice architecture by the board. Accordingly, the proposed rule changes set forth the procedures by which a qualifying applicant may become licensed to practice architecture in Louisiana.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change may result in an indeterminable but minimal increase in board revenues. The Board of Architectural Examiners anticipates that few military-trained architects or architects who are the spouses of military personnel will seek to use the proposed rule change to become licensed to practice architecture in this state. Assuming one out-of-state and two in-state applicants annually, the board anticipates revenue increase of \$450. The fee for an out-of-state applicant is \$300 and \$75 for an in-state applicant.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change provides an economic benefit to military-trained architects and architect spouses of military personnel who meet the requirements, as the proposed rule change provides a procedure whereby such persons may become licensed to practice architecture in Louisiana.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change may effect competition within the architectural profession, since military-trained architects and architects who are the spouses of military personnel may compete with other architects for architectural projects or employment.

Mary “Teeny” Simmons  
Executive Director  
1305#011

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Office of the Governor Board of Pardons/Committee on Parole

Parole—Eligibility, Conditions, Violations,  
Time Served and Grievance Procedure  
(LAC 22:XL301-311, 901-909,  
1101-1117, 1301, and 1701-1705)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Board of Pardons/Committee on Parole, hereby gives notice of its intent to amend its rules and promulgate rules of LAC 22:XL301-311, 901-909, 1101-1117, 1301, and 1701-1705. This rulemaking implements Act 792 of the 2010 Regular Session of the Louisiana Legislature and Act 714 of the 2012 Regular Session of the Louisiana Legislature. Act 792 provides for good behavior credit while on parole. Act 714 creates the Committee on Parole. Technical revisions include deleting reference to Board of Parole and adding reference to Committee on Parole.

### Title 22

## CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

### Part XI. Committee on Parole

#### Chapter 3. Parole-Eligibility and Types

##### §301. General Information

A. The authority for determining parole eligibility dates, offender class, good time release dates and full term dates will be the official master prison record computed by the Louisiana Department of Public Safety and Corrections. The board may accept changes in the offender class and parole eligibility dates when recommended by the Division of Probation and Parole and verified by the records custodian of the Department of Public Safety and Corrections. No offender may be paroled while there is pending against him any indictment or bill of information for any crimes suspected of having been committed by him while a prisoner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2295 (December 1998), amended by the Office of the Governor, Board of Pardons/Committee on Parole, LR 39:

##### §303. Regular Parole

A. An offender's eligibility is specified by Louisiana law. Parole eligibility is generally based on the nature of the offense, offender class, and length of time served. Not all offenders are eligible for parole consideration. Parole eligibility is determined and calculated by the Department of Public Safety and Corrections.

B. Generally within six months prior to an offender's parole eligibility date, all pertinent information will be

compiled concerning the offender's case, including but not limited to:

- a. the nature and circumstances of the offense;
- b. prison records;
- c. the pre-sentence investigation report;
- d. the pre-parole report including recommendations from the Division of Probation and Parole; and
- e. any other information (including correspondence), reports, or data as may be generated.

C. If appropriate, a public hearing shall be scheduled.

D. The committee will not schedule a parole hearing or rehearing when there is less than 90 days between the parole eligibility date and the diminution of sentence/parole supervision release date (good time release date). A hearing will not be held if the pre-parole investigation has not been received by the committee from the Division of Probation and Parole or if the victim has not been notified prior to the scheduled public hearing.

E. In the event an offender chooses to withdraw from parole consideration, he may reapply for a hearing in accordance with §705.

F. Parole hearings may be held during the six months prior to the parole eligibility date.

G. No offender who is the parent, stepparent, or has legal and physical custody of a child who is the victim, shall be released on parole unless the victim has received psychological counseling prior to the inmate's release if the inmate is returning to the residence or community in which the child resides. [See R.S. 15:572(a)(4)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2295 (December 1998), amended by the Office of the Governor, Board of Pardons/Committee on Parole, LR 39:

### **§305. Impact Parole**

A. A person otherwise eligible for parole, convicted of a nonviolent first felony offense or of a nonviolent second felony offense, but never having served time in the custody of the Department of Public Safety and Corrections, may be eligible for intensive parole supervision upon successful completion of intensive incarceration.

1. The intensive incarceration and parole supervision program is administered by the Department of Public Safety and Corrections. The offender voluntarily enrolls in the program after having been advised by the Department of Public Safety and Corrections of the rules and regulations governing the participation in the program.

B1. When an offender completes intensive incarceration, the committee shall review the case in a public hearing in accordance with §511 to determine whether the offender should be released on intensive parole supervision or serve the remainder of his sentence as provided by law. Such review shall include:

- a. an evaluation of the offender's performance while incarcerated;
- b. the likelihood of successful adjustment on parole; and
- c. other factors deemed relevant by the committee.

2. The committee may defer any final decision and reschedule the consideration for the next scheduled hearing at the Elayn Hunt Correctional Center.

C. When the offender is released to intensive parole supervision by the committee, the committee shall require the offender to comply with conditions of intensive parole supervision in accordance with R.S. 15:574.4.H in addition to any other conditions of parole ordered by the committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2296 (December 1998), amended by the Office of the Governor, Board of Pardons/Committee on Parole, LR 39:

### **§307. Medical Parole**

A. An offender determined by the Secretary of the Department of Public Safety and Corrections to be permanently incapacitated or terminally ill may be eligible for release consideration.

1. Upon referral by the Department of Public Safety and Corrections, the committee may schedule the offender for a hearing for medical parole consideration.

2. Offenders who are serving a sentence for first or second degree murder, who are awaiting execution, or who have a contagious disease are not eligible.

B. *Permanently incapacitated offender* means any offender who, by reason of an existing physical or medical condition, is so permanently and irreversibly physically incapacitated that he does not constitute a danger to himself or to society.

C. *Terminally ill offender* means any offender who, because of an existing medical condition, is irreversibly terminally ill, and who by reason of the condition does not constitute a danger to himself or to society.

D. Public hearings for medical parole consideration will be held at a location convenient to the committee and the offender. The committee may request that additional medical information be provided or that further medical examinations be conducted.

E. The authority to grant medical parole shall rest solely with the committee.

1. The committee shall not grant medical parole unless advised by the secretary of the Department of Public Safety and Corrections or the Secretary's designated healthcare authority that the offender is permanently disabled or incapacitated.

2. The committee, if it grants medical parole, may establish any additional conditions of medical parole as it may deem necessary to monitor the offender's physical condition and to assure that the offender is not a danger to himself and society.

F. Supervision of an offender released on medical parole shall consist of periodic medical evaluations at intervals to be determined by the committee at the time of release.

1. An offender released on medical parole may have his parole revoked if his medical condition improves to such a degree that he is no longer eligible for medical parole.

2. Medical parole may also be revoked for violation of any condition of parole as established by the committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2297 (December 1998), amended by the Office of the Governor, Board of Pardons/Committee on Parole, LR 39:



**§309. Diminution of Sentence (Good Time/Parole Supervision Release)**

A. Each offender released on diminution of sentence/parole supervision shall be subject to conditions of parole pursuant to R.S. 15:574.4(H) and Chapter 9 of these rules.

B. If an offender violates a condition of his diminution of sentence/parole supervision release or other conditions imposed by the committee shall proceed in the same manner as in revocation matters pertaining to those granted regular parole.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2297 (December 1998), amended by the Office of the Governor, Board of Pardons/Committee on Parole, LR 39::

**§311. Work Release**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2297 (December 1998), repealed by the Office of the Governor, Board of Pardons/Committee on Parole, LR 39:

**Chapter 9. Conditions of Parole**

**§901. Certificate of Parole**

A. The Certificate of Parole will not become operative until specific conditions of release have been acknowledged and agreed to in writing by the offender.

1. The offender shall be advised orally and in writing of the conditions of parole prior to his release from incarceration.

2. The conditions of parole shall include, but not be limited to, those conditions contained in the certificate of parole, as approved by the committee and the Division of Probation and Parole pursuant to the provisions of R.S. 15:574.4

B. Special conditions of parole, in addition to those required by R.S. 15:574.4, may be imposed and may include one or more of the following:

1. attendance at AA/NA meetings (the committee may specify the number of meetings to attend weekly);

2. mental health evaluation and treatment;

3. substance abuse evaluation and treatment;

4. payment of restitution for a direct pecuniary loss other than damage to or loss of property;

5. payment of fines and/or costs of court;

6. prohibited contact with the victim(s);

7. prohibited contact with co-defendant(s);

8. required GED, vo-tech or other educational plan;

9. compliance with treatment plan as ordered in the mental health or substance abuse treatment provider;

10. any other special conditions the committee may deem appropriate.

C. The committee shall impose special conditions of parole as set forth below.

1. When the victim's loss consists of damage to or loss of property, payment of restitution, either in a lump sum amount or in monthly installments based on the offender's earning capacity and assets. If the victim has been paid for such damage to or loss of property with monies from the Crime Victims Reparations Fund, the committee shall order

the parolee to make payments as reimbursement to the fund in the same amount as was paid from the fund to the victim. The Department of Public Safety and Corrections shall verify that prior payment has not been made by the parolee.

2. If the offender has not paid and is liable for any costs of court or costs of the prosecution or proceeding in which he was convicted or any fine imposed as a part of his sentence, the committee shall require the payment of such costs or fine, either in a lump sum or according to a schedule of payments established by the committee and based upon the offender's ability to pay.

3.a. If the offender does not have a high school degree or its equivalent, the committee shall require the offender to enroll in and attend an adult education or reading program until he obtains a GED, or until he completes such educational programs required by the committee, and has attained a sixth grade reading level, or until his term of parole expires, whichever occurs first. All costs shall be paid by the offender.

b. If it is determined that there are no adult education or reading programs in the parish in which the offender will be residing, or that the offender is unable to afford such a program, or attendance would create an undue hardship, this condition may be suspended.

c. The provisions of §901 shall not apply to those offenders who are mentally, physically, or by reason of age, infirmity, dyslexia, or other such learning disorders, unable to participate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2302 (December 1998), amended by the Board of Pardons/Committee on Parole, LR 38:2622 (October, 2012), amended by the Office of the Governor, Board of Pardons/Committee on Parole, LR 39:

**§903. Sex Offenders; General**

A. The term *sex offender* shall refer to an offender/parolee who has been convicted for the commission, attempted commission, or conspiracy to commit any offense as cited in R.S. 15:541, or the equivalent, if committed in another jurisdiction. The committee will consider any offender who has been convicted of a sex offense, when the law permits parole consideration for that offense and the offender is otherwise eligible.

C. In addition to any other notification requirement imposed by law, any sex offender released on parole shall be required to register and provide notification as a sex offender in accordance with R.S. 15:542, et seq.

D. Any sex offender released on parole shall be required to comply with the prohibitions and conditions of parole detailed in 15:538, et seq.

E. Any sex offender released on parole shall be required to comply with conditions of R.S. 15:574.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2302 (December 1998), amended by the Board of Pardons/Committee on Parole, LR 38:2622 (October, 2012), amended by the Office of the Governor, Board of Pardons/Committee on Parole, LR 39:

**§905. Notification and Registration—Sex Offenders**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2303 (December 1998), amended by the Board of Pardons/Committee on Parole, LR 38:2623 (October, 2012), repealed by the Office of the Governor, Board of Pardons/Committee on Parole, LR 39:

**§907. Additional Notification and Registration Requirements for Sex Offenders if Victim Is under Age 18**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2303 (December 1998), amended by the Board of Pardons/Committee on Parole, LR 38:2623 (October, 2012), repealed by the Office of the Governor, Board of Pardons/Committee on Parole, LR 39:

**§909. Special Conditions—Sex Offenders**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2303 (December 1998), repealed by the Office of the Governor, Board of Pardons/Committee on Parole, LR 39:

**Chapter 11. Violations of Parole**

**§1101. Types of Violations**

**A. New Felony Conviction-Automatic Revocation**

1. Parole will be automatically revoked when a parolee is convicted and sentenced in Louisiana for a new felony and the appeal process has been exhausted. Prior to documented proof that the appeal process has been exhausted, the committee may revoke a parolee for technical violations at a public hearing.

2. A parolee who is convicted of a new felony in another state, or of a misdemeanor which if committed in this state would be a felony, shall have his parole revoked.

**B. Technical Violations**

1. Technical violations include any violations of the conditions of parole which are not felony convictions. Engaging in conduct constituting a felony or misdemeanor offense, even if not adjudicated, may be considered a technical violation for revocation purposes.

2. When a parolee has been detained in jail by the Division of Probation and Parole, a pre-revocation on-site hearing (preliminary hearing) will be scheduled as soon as possible. Subsequent to the preliminary hearing, bond may be permitted, but only with authorization of the committee.

**C. Absconders**

1. A parolee may be considered to have absconded supervision if he absents himself from his approved place of residence without permission from the Division of Probation and Parole.

2. When apprehended, absconders will be immediately returned to the custody of the Department of Public Safety and Corrections for a revocation hearing.

a. Out of state absconders will not be entitled to a pre-revocation hearing (preliminary hearing).

b. Extradition or waiver of extradition shall be considered as probable cause for absconders apprehended out-of-state.

c. Upon return to the custody of the Department, a parole revocation questionnaire shall be completed and forwarded to the committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2304 (December 1998), amended by the Office of the Governor, Board of Pardons/Committee on Parole, LR 39:

**§1103. Activity Report**

A. An activity report is used by the Division of Probation and Parole to advise the committee of an offender's actions for informational purposes. An activity report may, or may not, require action by the committee.

B.1. If action by the committee is necessary, the activity report will normally be used to recommend the following:

- a. issuance of an arrest warrant;
- b. issuance of a reprimand (usually not in custody);
- c. removal of a detainer to allow bond;
- d. suspension of supervision;
- e. unsatisfactory termination of parole;
- f. addition or deletion of special parole conditions;
- g. recalling a warrant.

C. Upon receipt of the activity report, the case will be placed on the single-member action docket for a decision.

D. After the case has been acted upon, a decision notice will be forwarded to the Probation and Parole District Office where the parolee is assigned for supervision. The notice will be delivered to the parolee and a copy retained in the district office case record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2304 (December 1998), amended by the Office of the Governor, Board of Pardons/Committee on Parole, LR 39:

**§1105. Pre-Revocation Hearing for Detained Parole Violators—Preliminary Hearing**

A. The *pre-revocation hearing* (preliminary hearing) is a preliminary due process administrative hearing which is conducted by a hearing officer designated by the Division of Probation and Parole. The hearing officer will have no direct prior knowledge of the parolee and the circumstances surrounding the allegations.

1. The purpose of the preliminary hearing is to determine if there is probable cause that the parolee has violated the conditions of his parole.

2. A finding of probable cause may support the continued detention of the parolee pending a final revocation hearing.

3. The allegations and findings presented in the preliminary hearing documents will be the foundation for revocation or other specified action. The preliminary hearing will be conducted within a reasonable time following detention and in the locale or vicinity close to where the alleged violation occurred so that the offender has access to both favorable and adverse witnesses.

B.1. Prior to the preliminary hearing, written notification will be furnished to the parolee advising him of:

- a. the charges pending against him;

- b. his rights at the hearing; and
  - c. the date, time, and place of the hearing.
2. The parolee may request deferral of the preliminary hearing pending disposition of new felony charges.

C.1. The parolee may retain an attorney, or, if eligible, be represented by appointed counsel.

2. Documentary evidence and oral testimony may be taken from all participants present at the hearing, including witnesses and the parolee's friends and family.

3. At the conclusion of the hearing, the hearing officer will issue a ruling as to probable cause.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2305 (December 1998), amended by the Office of the Governor, Board of Pardons/Committee on Parole, LR 39:

#### **§1107. Findings by Hearing Officer**

A. The hearing officer who presides at the preliminary hearing will issue a finding of probable cause or no probable cause.

1. If no probable cause is found, the hearing officer shall order the parole violation detainer to be lifted and the alleged violator released from custody.

2. If probable cause is found, the Division of Probation and Parole will make one of the following recommendations to the committee:

- a. that the parole violator be detained;
- b. that the parole violator be allowed to make bond, if new charges are pending, while awaiting a final decision from the committee;
- c. that the parole violator remain incarcerated, without bond, pending disposition of the charge;
- d. that the parole violator be reprimanded and continued under parole supervision.

3. If probable cause is found, the parole revocation questionnaire will be completed and forwarded to the committee.

B. A copy of the finding will be given to the parolee and a copy forwarded to the committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2305 (December 1998), amended by the Office of the Governor, Board of Pardons/Committee on Parole, LR 39:

#### **§1109. Violation Report**

A.1. The Division of Probation and Parole utilizes a violation report to document and notify an offender's violation of the conditions of parole. The violation report is used to:

- a. formally advise the committee of a parolee's current violations;
- b. summarize a parolee's conduct on supervision and
- c. make recommendations to the committee for action on the violations of parole conditions.

2. The action requested may be of an interim nature or for final disposition.

B. The violation report will normally be used to recommend the following:

- 1. automatic revocation;
- 2. hold pending disposition of charges;

- 3. revocation of parole;
- 4. allow bond pending disposition of charges;
- 5. impose, add, or modify special conditions of parole;
- 6. reprimand; and
- 7. unsatisfactory termination of parole.

C. The Division of Probation and Parole will prepare the violation report within five working days following receipt of the preliminary hearing findings from the hearing officer or five working days from the date the parolee waived or deferred the preliminary hearing. The report, along with the preliminary hearing forms and other documents, shall be forwarded to the committee.

D. Upon receipt of the violation report and other documentation, the case will be placed on the single-member action docket.

E. After the case has been acted upon, a decision notice will be forwarded to the Probation and Parole District Office where the parolee is assigned for supervision. The notice will be delivered to the parolee and a copy retained in the district office case record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2305 (December 1998), amended by the Office of the Governor, Board of Pardons/Committee on Parole, LR 39:

#### **§1111. Scheduling Parolees for Revocation Hearing**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2306 (December 1998), repealed by the Office of the Governor, Board of Pardons/Committee on Parole, LR 39:

#### **§1113. Revocation Hearing**

A. The purpose of the final revocation hearing is to determine if one or more conditions of parole have been violated by the offender, and if such violation(s) are serious enough to warrant re-incarceration of the offender to serve the balance of his sentence.

B. The revocation hearing is a public hearing and shall be conducted as outlined in Chapter 3 of these rules.

C.1. The parolee:

- a. must be present for the hearing;
- b. may be represented by an attorney; and
- c. may normally have one witness testify on his behalf.

2. For good cause shown, the panel may permit the parolee to present additional witnesses. Reliable documentary evidence is admissible at the hearing.

D. A copy of the violation report with attachments will be provided to each panel member prior to the hearing, along with any other pertinent documents which may be submitted to the panel prior to or at the hearing.

E.1. The chairman of the panel, or his designee, shall:

- a. ensure the identification of the parolee; and
- b. obtain an acknowledgment that the parolee understands his rights related to the hearing.

2. The alleged violations will be read and the parolee will be asked to respond to each with "guilty" or "not guilty."

F.1. The parolee will be encouraged to speak for himself and to make a statement on his own behalf.

2. The parolee's attorney may speak on his behalf and/or advise him at any time throughout the hearing.

3. The district attorney or his or her representative may speak on behalf of the prosecution.

4. The board may request oral testimony from all participants present who have specific knowledge of the revocation violation(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2306 (December 1998), amended by the Office of the Governor, Board of Pardons/Committee on Parole, LR 39:

#### **§1115. Decision of the Parole Panel**

A. The panel may make one of the following decisions:

1. revocation of parole;
2. reprimand and restore to parole supervision with or without special conditions imposed;
3. unsatisfactory termination of parole if full term date of parole supervision has passed;
4. participation in a transitional work program for up to six months in lieu of revocation.

5. as an alternative to incarceration, in lieu of revocation, be committed to a community rehabilitation center or a substance abuse treatment program operated by, or under contract with, the Department of Public Safety and Corrections for period of time not to exceed six months, provided that the period of such commitment does not extend beyond the full parole term.

6. as an alternative to incarceration, in lieu of revocation, participation in other specific therapeutic programs as approved by the Department of Public Safety and Corrections and/or the Division of Probation and Parole.

B.1. The panel may elect to vote to continue or recess the hearing until certain testimony which was not available at the preliminary hearing can be heard or further evidence can be verified and presented.

2. The panel may also vote to recess and defer a decision until the outcome of pending charges. In this case, the parolee may be allowed to make bond on pending charges if so ordered by the panel. The board may then render a decision after receipt of additional evidence or after the disposition of the pending charge(s).

C.1. At the conclusion of the hearing, the panel will advise the offender orally of its decision and he will be furnished with a copy of the Parole Revocation Decision Form.

2. A copy of each Parole Revocation Decision Form will also be forwarded to the Probation and Parole District Office assigned supervision of the offender.

3. At the end of each month, a copy of all revocation dockets reflecting the results of the hearings will be forwarded to all Probation and Parole District Offices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2306 (December 1998) amended by the Office of the Governor, Board of Pardons/Committee on Parole, LR 39:

#### **§1117. Automatic Revocation for New Felony Conviction**

A. A final revocation hearing will not be held if the parolee has been convicted of a new felony while on parole,

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2306 (December 1998), amended by the Office of the Governor, Board of Pardons/Committee on Parole, LR 39:

#### **Chapter 13. Time Served**

##### **§1301. Time Must Be Served if Revoked**

A.1. Offenders whose good time parole supervision or regular parole supervision is revoked by the Committee on Parole on or after January 1, 1992, shall receive good time on the jail credit awarded in accordance with La. R.S. 15:574.9(E).

2. An offender returned to incarceration for a parole violation that does not include a new sentence for a felony offense will be returned to serve the remainder of the original sentence as of the date of his release on supervision pursuant to La.R.S.15:571.5. An offender may receive flat credit for good behavior while on parole supervision. Such credit may be awarded from the date of release on parole supervision until the date a warrant or detainer that causes revocation is issued by the Committee on Parole, pursuant to Act 792 of the 2010 regular legislative session.

3. An offender who has been granted parole by the committee before August 15, 1997 for a crime committed on or after July 26, 1972, and who has been revoked for violating the terms of parole granted by the committee, shall forfeit all good time earned on that portion of the sentence served prior to the granting of parole, up to a maximum

4. Notwithstanding the provisions of R.S. 15:574.9(B)(2)(a), an offender's good time parole supervision or regular parole supervision may be revoked by the Committee on Parole for violating technical conditions of his supervision. The remaining portion of the parole sentence shall begin on the revocation date as determined by the committee.

5. An offender who has been granted a regular parole or an IMPACT parole on or after August 15, 1997, and whose parole is revoked by the Committee on Parole for any reason, shall forfeit good time earned prior to parole as required by R.S. 15:571.4 and 15:574.4.2.

B. An offender returned to incarceration as a parole violator who has received a new sentence for a felony offense while on parole shall serve the remaining portion of the parole sentence consecutively or concurrently, as ordered by the court. The remaining portion of the parole sentence shall not begin prior to the imposition of the new felony sentence.

C. The committee accepts the official master prison record as issued by the Louisiana Department of Public Safety and Corrections in determining when sentences are concurrent or consecutive.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., R.S. 15:540 et seq. and R.S. 15:571.5.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2306 (December 1998), amended by the Department of Public Safety and Corrections, Corrections Services, LR 36:2872 (December 2010), amended by the Office of the Governor, Board of Pardons/Committee on Parole, LR 39:

## **Chapter 17. Grievance Procedure**

### **§1701. Right to File a Grievance**

A. Any person may file a grievance under this procedure. However, no offender or parolee shall have the right to file a grievance against the board or committee members for the decisions enumerated in R.S. 15:574.11.

B. A grievance must be based upon a violation of the on Louisiana Committee Parole Rules and Procedures, Department of Public Safety and Corrections regulations, or the Louisiana Revised Statutes.

C. A person against whom a grievance is filed is entitled to be represented by counsel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2307 (December 1998), amended by the Office of the Governor, Board of Pardons/Committee on Parole, LR 39:

### **§1703. Complaint Process**

A. All grievances must be made in writing and submitted to the chairman of the Board of Pardons. Upon receipt, the chairman shall review the grievance and, if appropriate, forward it to the proper agency or authority for further action.

B. If the grievance relates to the board, or a member of the Committee on Parole, or the department staff assigned to the board or committee, the chairman or his or her designee will investigate to determine if it has a basis in fact.

1. If the complaint is determined to have a basis in fact, the chairman will attempt to resolve the grievance.

2. If the chairman is unable to resolve the grievance, it shall be referred to a grievance committee. The committee shall consist of:

- a. the chairman of the board;
- b. the vice chairman (unless the chairman or vice chairman is the subject of the grievance); and
- c. any other person or persons jointly selected by the chairman and vice chairman.

C. If the grievance committee is unable to resolve the grievance, the matter will be forwarded together with any supporting documentation to the governor's executive counsel for resolution. Supporting documentation shall include the following information:

1. a reference to the relevant statute, rules, regulations and/or code of ethics, etc.;
2. a written summary of the attempts made to resolve the complaint; and
3. any other pertinent documentation.

D.1. In the event the grievance is against the chairman of the board, the complaint shall be submitted directly to the vice chairman. In this instance, the chairman will recuse himself or herself and shall not appoint a designee to the committee.

2. If the grievance is against the vice chairman, the vice chairman shall recuse himself or herself and shall not appoint a designee to the committee.

3. The remaining member of the grievance committee shall select a member of the committee to serve in place of the recused member.

4. If the complaint is against a committee member, that member shall not be selected to serve on the grievance committee.

E. The decision of the chairman, the grievance committee, or the executive counsel, whichever may apply, is final and not subject to appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2307 (December 1998), amended by the Office of the Governor, Board of Pardons/Committee on Parole, LR 39:

### **§1705. Resolution of Grievance**

A. A written response to the grievance shall be mailed to the complaining party.

B. If it is determined that a board member has violated the Louisiana Committee on Parole Rules and Procedures, Department of Public Safety and Corrections regulations, or the Louisiana Revised Statutes, a letter shall be issued notifying the board member of the violation and a copy forwarded to the governor for disposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2307 (December 1998), amended by the Office of the Governor, Board of Pardons/Committee on Parole, LR 39:

### **Family Impact Statement**

Amendment to the rules has no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relations to individual or community asset development as described in R.S. 49:973.

### **Public Comment**

Written comments may be addressed to Linda Landry, Principal Assistant to the Board of Pardons/Committee on Parole, Post Office Box 94304, Baton Rouge, LA 70804 until 4:30 p.m. on June 9, 2013.

Sheryl M. Ranatza  
Chairman

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: Parole—Eligibility, Conditions, Violations, Time Served and Grievance Procedure**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule change will have no impact on state or local governmental unit expenditures. The proposed rule change updates and revises LAC 22:XI.301-311, 901-909, 1101-1117, 1301 and 1701-1705 which implements Act 792 of the 2010 Regular Legislative Session and Act 714 of the 2012 Regular Legislative Session. Act 792 provides for good

behavior credit while on parole and Act 714 creates the Committee on Parole.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no estimated cost and/or economic benefit to directly affected persons or non-governmental groups as a result of the proposed rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of the proposed rule change.

Thomas C. Bickham, III  
Undersecretary  
1305#026

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Division of Administration  
Racing Commission**

**Pick Six (LAC 35:XIII.11003)**

The Louisiana State Racing Commission hereby gives notice to amend the following rule. The proposed rule will allow the exotic wager called the Pick-6, which allows for a carryover of 50 percent of the betting pool when there is not a single ticket winner to the next day's wagering pool.

**Title 35**

**HORSE RACING**

**Part XIII. Wagering**

**Chapter 110. Pick Five or Pick Six**

**§11003. Pick Six**

A. The pick six pari-mutuel pool is not a parlay and has no connection with or relation to any other pari-mutuel pool conducted by the association, nor to any win, place and show pool shown on the totalizator, nor to the rules governing the distribution of such other pools.

B. A pick six pari-mutuel ticket shall be evidence of a binding contract between the holder of the ticket and the association and the said ticket shall constitute an acceptance of the pick six provisions and rules.

C. A pick six may be given a distinctive name by the association conducting the meeting, subject to approval of the commission.

D. The pick six pari-mutuel pool consists of amounts contributed for a selection for win only in each of six races designated by the association with the approval of the commission. Each person purchasing a pick six ticket shall designate the winning horse in each of the six races comprising the pick six.

E. Those horses constituting an entry of coupled horses or those horses coupled to constitute the field in a race comprising the pick six shall race as a single wagering interest for the purpose of the pick six pari-mutuel pool calculations and payouts to the public. However, if any part of either an entry or the field racing as a single wagering interest is a starter in a race, the entry or the field selection

shall remain as the designated selection to win in that race for the pick six calculation and the selection shall not be deemed a scratch.

F. The pick six pari-mutuel pool shall be calculated as follows.

1. The net amount in the pari-mutuel pool referred to in this Section is defined as the pari-mutuel pool created by pick six wagering on that particular day and does not include any amounts carried over from previous days' betting as provided by in Subparagraph F.3.a and Subparagraph F.4.a below.

2. One hundred percent of the net amount in the pari-mutuel pool is subject to distribution to a single unique winning ticket holder, plus any carryover resulting from provisions of Paragraph F.3 and Paragraph F.4 shall be distributed to the unique winning ticket holder of the single pari-mutuel ticket which correctly designates the official winner in each of the six races comprising the pick six.

3. In the event there is more than one pari-mutuel ticket properly issued which correctly designates the official winner in each of the six races comprising the pick six, the net pari-mutuel pool shall be distributed as follows.

a. Fifty percent of the net amount in the pari-mutuel pool shall be retained by the association as distributable amounts and shall be carried over to the next succeeding racing day as an additional net amount to be distributed as provided in Paragraph F.2.

b. Fifty percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of pari-mutuel tickets which correctly designate the official winner in each of the six races comprising the pick-six.

4. In the event there is no pari-mutuel ticket properly issued which correctly designates the official winner in each of the six races comprising the pick six, the net pari-mutuel pool shall be distributed as follows.

a. Fifty percent of the net amount in the pari-mutuel pool shall be retained by the association as distributable amounts and shall be carried over to the next succeeding racing day as an additional net amount to be distributed as provided in Paragraph F.2.

b. Fifty percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of pari-mutuel tickets which correctly designate the most official winners, but less than six, in each of the six races comprising the pick six.

5. Should no distribution be made pursuant to Paragraph F.1 on the last day of the association meeting, then that portion of the distributable pool and all monies accumulated therein shall be distributed to the holders of tickets correctly designating the most winning selections of the six races comprising the pick six for that day or night; the provisions of Subsections I and J have no application on said last day.

G. In the event a pick six ticket designates a selection in any one or more of the races comprising the pick and that selection is scratched, excused or determined by the stewards to be a nonstarter in the race, the actual favorite, as evidenced by the amounts wagered in the win pool at the time of the start of the race, will be substituted for the nonstarting selection for all purposes, including pool calculations and payoffs. In the event the amount wagered in

the win pool on two or more favorites is identical, the favorite with the lowest number on the program will be designated as the actual favorite.

H. In the event of a dead heat for win between two or more horses in any pick six race, all such horses in the dead heat for win shall be considered as winning horses in that race for the purpose of calculating the pool.

I. No pick six shall be refunded except when all of the races comprising the pick six are canceled or declared as "no contest." The refund shall apply only to the pick six pool established on that racing card. Any net pool carryover accrued from a previous pick six feature shall be further carried over to the next scheduled pick six feature operated by the association.

J. In the event that any number of races less than six comprising the pick six are completed, 100 percent of the net pool for the pick six shall be distributed among holders of pari-mutuel tickets that designate the most winners in the completed races. No carryover from a previous day shall be added to the pick six pool in which less than six races have been completed. Any net pool carryover accrued from a previous pick six feature shall be further carried over to the next scheduled pick six pool operated by the association.

K. No pari-mutuel ticket for the pick six pool shall be sold, exchanged or canceled after the time of the closing of wagering in the first of the six races comprising the pick six, except for such refunds on pick six tickets as required by this regulation, and no person shall disclose the number of tickets sold in the pick six pool or the number or amount of tickets selecting winners of pick six races until such time as the stewards have determined the last race comprising the pick six each day to be official.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2, and R.S. 4:149.3.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 39:

#### **Family Impact Statement**

This proposed Rule has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

#### **Poverty Impact Statement**

This proposed Rule has no known impact on poverty as described in R.S. 49:973.

#### **Public Comments**

The domicile office of the Louisiana State Racing Commission is open from 8:00 a.m. to 4:30 p.m., and interested parties may contact Charles A. Gardiner III, executive director, or Larry Munster, assistant executive director, at (504) 483-4000 (holidays and weekends excluded), or by fax (504) 483-4898, for more information. All interested persons may submit written comments relative to this proposed rule for a period up to 20 days exclusive of weekends and state holidays from the date of this publication to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner III  
Executive Director

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: Pick Six**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There is no anticipated direct material effect on state or local governmental units as a result of the proposed administrative rule. The proposed rule allows for an exotic wager (Pick-6 wager), which has a carryover of 50% of the betting pool when there is not a single ticket winner to the next day's wagering pool for all licensed race tracks conducting live racing.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change may result in an indeterminable increase in revenue collections by state and local governmental units as the state and local governments tax a percentage of all amounts wagered at licensed racetracks in Louisiana. To the extent Evangeline Downs, Fair Grounds Race Course, Delta Downs and Louisiana Downs offer the Pick-6 wager, state and local government revenue collections will increase by an indeterminable amount.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed administrative rule change may result in an indeterminable economic benefit to licensed racetracks in Louisiana by offering the Pick-6 wager, which may result in increased wagering.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no effect on competition and employment as a result of the proposed administrative rule change.

Charles A. Gardiner III  
Executive Director  
1305#016

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## **NOTICE OF INTENT**

### **Department of Public Safety and Corrections Corrections Services**

#### **Offender Mail and Publications (LAC 22:I.313)**

In Accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to amend the contents of Section 313, Offender Mail and Publications.

#### **Title 22**

### **CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT**

#### **Part I. Corrections**

#### **Chapter 3. Adult Services**

#### **Subchapter A. General**

#### **§313. Offender Mail and Publications**

##### **A. - H.6. ...**

##### **I. Procedures for Death Row Offenders Correspondence**

1. Pursuant to the provisions of Act No. 799 of the 2012 Regular Session, the following procedures provide for the review and inspection of incoming and outgoing

correspondence of death row offenders to ensure no contractual arrangements are being contemplated or in effect that would allow the offender to profit from his crimes of notoriety.

a. All incoming and outgoing general correspondence, including packages, shall be inspected.

b. Incoming and outgoing privileged mail shall be inspected outside the offender's presence when there is reasonable suspicion that contraband is being sent to the offender or from the offender, or the offender is contemplating a contractual arrangement that would result in his receiving any type of profits or proceeds relative to his criminal acts. The warden or deputy warden shall authorize such inspection.

c. In the event it is determined that the offender is contemplating or has established a contractual arrangement, the information shall be immediately reported by the warden to the secretary who shall notify the attorney general's office pursuant to established procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:833(A), *Guajardo v. Esteile*, 580 F.2d 748 (5<sup>th</sup> Cir.1978).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 5:4 (January 1979), amended LR 10:803 (October 1984), LR 11:360 (April 1985), amended by the Department of Public Safety and Corrections, Corrections Services, LR 33:851 (May 2007), LR 38:830 (March 2012), LR 39:

#### **Family Impact Statement**

Amendment to the current Rule has no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

#### **Poverty Impact Statement**

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

#### **Public Comments**

Written comments may be addressed to Melissa Callahan, Deputy Assistant Secretary, Department of Public Safety and Corrections, P. O. Box 94304, Baton Rouge, LA 70804 until 4:30 p.m. on June 10, 2013.

James M. LeBlanc  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Offender Mail and Publications**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule change will have no impact on state or local government expenditures. Pursuant to Act 799 of the 2012 Regular Session, the proposed rule change is a technical adjustment that amends the current rule on Offender Mail and Publications. The proposed rule change provides procedures for the review and inspection of incoming and outgoing correspondence of death row offenders to ensure no contractual arrangements are being contemplated or in effect that would allow the offender to profit from his crimes of notoriety.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections of state or local governmental units as a result of the proposed rule change.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There is no estimated cost and/or economic benefit to directly affected persons or non-governmental groups as a result of the proposed rule change.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no estimated effect on competition and employment as a result of the proposed rule change.

Thomas C. Bickham, III  
Undersecretary  
1305#006

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Transportation and Development Professional Engineering and Land Surveying Board**

##### **Examinations**

(LAC 46:LXI.1301, 1303, 1307, 1313, 1315, and 1701)

Under the authority of the Louisiana professional engineering and land surveying licensure law, R.S. 37:681 et seq., and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Professional Engineering and Land Surveying Board has initiated procedures to amend its rules contained in LAC 46:LXI.1301, 1303, 1307, 1313, 1315, and 1701.

This is a technical revision of existing rules under which LAPELS operates. These changes relate to the fundamentals of engineering and fundamentals of land surveying examinations and the process by which individuals desiring to take those examinations will apply directly to and receive permission from the National Council of Examiners for Engineering and Surveying in order to take the examinations.

#### **Title 46**

#### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part LXI. Professional Engineers and Land Surveyors Chapter 13. Examinations**

##### **§1301. General**

A.1. Only individuals who have received permission from the National Council of Examiners for Engineering and Surveying (NCEES) will be allowed to take the fundamentals of engineering and fundamentals of land surveying examinations, and all applications for these examinations must be timely filed with NCEES.

2. Only individuals of good character and reputation who have received permission from the board will be allowed to take the principles and practice of engineering, principles and practice of land surveying and Louisiana laws of land surveying examinations, and all applications for these examinations must be timely filed with the board.

B. ...

C.1. Timely filing of an application with the board or NCEES does not assure that an applicant will be permitted to take an examination, or be scheduled for examination on a particular date.



2. To be considered for a specific examination date, the application for the following examinations should be received by NCEES no later than the date specified by NCEES:

- a. fundamentals of engineering; and
- b. fundamentals of land surveying.

3. To be considered for a specific examination date, the application for the following examinations should be received at the board office no later than December 1 for the April examination administration and June 1 for the October examination administration:

- a. principles and practice of engineering;
- b. principles and practice of land surveying; and
- c. Louisiana laws of land surveying.

D. Examinations in the fundamentals of engineering, fundamentals of land surveying, the principles and practice of engineering, the principles and practice of land surveying and the Louisiana laws of land surveying will be offered at times and places designated by the board or NCEES. Descriptions of typical content of the examinations will be made available to applicants through NCEES.

E. - F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:113 (May 1979), amended LR 7:647 (December 1981), LR 11:363 (April 1985), LR 16:774 (September 1990), LR 19:57 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1030 (July 2001), LR 30:1714 (August 2004), LR 35:1909 (September 2009), LR 37:2413 (August 2011), repromulgated 37:2752 (September 2011), amended LR 38:2565 (October 2012), LR 39:

### **§1303. Waiver of the Fundamentals of Engineering Examination**

A. The board may waive the fundamentals of engineering examination for any applicant who has an earned doctoral degree in engineering from a college or university having an undergraduate accredited engineering curriculum.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 4:88 (March 1978), amended LR 5:113 (May 1979), LR 6:735 (December 1980), LR 7:647 (December 1981), LR 10:805 (October 1984), LR 14:449 (July 1988), LR 17:804 (August 1991), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1030 (July 2001), LR 30:1714 (August 2004), LR 32:1620 (September 2006), LR 39:

### **§1307. Approval to Take the Fundamentals of Land Surveying Examination**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:113 (May 1979), amended LR 7:647 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1030 (July 2001), LR 30:1715 (August 2004), repealed LR 39:

### **§1313. Examination Results**

A. The board or the National Council of Examiners for Engineering and Surveying (NCEES) will specify the minimum passing score for all examinations for certification or licensure of applicants.

B. Applicants will be informed only as to whether they passed or failed an examination. Numerical grades are not available to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:114 (May 1979), amended LR 7:647 (December 1981), LR 11:363 (April 1985), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1031 (July 2001), LR 30:1715 (August 2004), LR 39:

### **§1315. Re-Examinations**

A. ...

B. After an individual has failed a principles and practice of engineering examination, principles and practice of land surveying examination or Louisiana laws of land surveying examination in any and all jurisdictions for the third time, he/she is not eligible to apply to retake the examination for the next two consecutive test cycles. If an individual has failed a principles and practice of engineering examination, principles and practice of land surveying examination or Louisiana laws of land surveying examination in any and all jurisdictions five or more times, following each successive failed examination, he/she is not eligible to apply to retake the examination for the next two consecutive test cycles and must successfully complete a review course approved by the board prior to reapplying. After an individual has failed a principles and practice of engineering examination, principles and practice of land surveying examination or Louisiana laws of land surveying examination in any and all jurisdictions for the tenth time, he/she is no longer eligible to retake the examination.

C. Before an applicant is given approval to retake a principles and practice of engineering examination, principles and practice of land surveying examination or Louisiana laws of land surveying examination, he/she may be required to appear before the board, or a committee of the board, for an oral interview/oral examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:353 (November 1976), amended LR 4:516 (December 1978), LR 5:114 (May 1979), LR 7:647 (December 1981), LR 12:692 (October 1986), LR 16:774 (September 1990), LR 19:57 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1031 (July 2001), LR 30:1715 (August 2004), LR 32:1620 (September 2006), LR 35:1909 (September 2009), LR 36:1034 (May 2010), LR 39:

## **Chapter 17. Applications and Fees**

### **§1701. Applications**

A. - D. ...

E. An application for licensure may be considered incomplete by the board. The applicant may be denied admission to an examination until the information submitted in the application has been investigated and replies have

been received from references. The board may require additional information and documents it considers necessary for the proper evaluation of an application.

F. An application requiring an examination for certification or licensure must be timely filed with the board or NCEES, as discussed in §1301.

G. Applicant files may be destroyed at the discretion of the executive director no earlier than five years after original submission of the application.

H. Applications for licensure of an engineering firm and/or land surveying firm must be typed on the form provided by the board, must be completed in their entirety, and must contain the name, license number, and signature of all Louisiana professional engineers and/or professional land surveyors designated as supervising professionals in accordance with Chapter 23 (Firms). The name and signature of an officer of the firm duly authorized to make certifications on behalf of the firm must appear in the specified location of the form. If the applicant is a corporation, a copy of the corporation's Louisiana certificate of incorporation (domestic) or certificate of authority (foreign) must accompany the application. If the applicant is a limited liability company, a copy of the company's Louisiana certificate of organization (domestic) or certificate of authority (foreign) must accompany the application. The board will license firms that are corporations using only the name as reflected on the corporation's certificate of authority or the certificate of incorporation. The board will license firms that are limited liability companies using only the name as reflected on the company's certificate of authority or the certificate of organization. Designated supervising professionals for the firm must also successfully complete a Louisiana laws and rules examination prior to licensure of the firm.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:688.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:112 (May 1979), amended LR 5:365 (November 1979), LR 7:646 (December 1981), LR 11:362 (April 1985), LR 19:57 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1032 (July 2001), LR 30:1717 (August 2004), LR 37:2414 (August 2011), LR 38:2565 (October 2012), LR 39:

#### **Family Impact Statement**

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*. The proposed Rule has no known impact on family formation, stability or autonomy.

#### **Poverty Impact Statement**

In accordance with R.S. 49:953(A)(1)(a)(ix) and 973, the following Poverty Impact Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*. The proposed Rule has no known impact on child, individual or family poverty in relation to individual or community asset development.

#### **Public Comments**

Interested parties are invited to submit written comments on the proposed Rule through June 10, 2013 at 4:30 p.m., to Donna D. Sentell, Executive Director, Louisiana

Professional Engineering and Land Surveying Board, 9643 Brookline Avenue, Suite 121, Baton Rouge, LA 70809-1433.

Donna D. Sentell  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Examinations**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There will be no costs or savings to state or local governmental units resulting from this proposed rule change. The proposed rule change is a technical revision of existing rules under which the Louisiana Professional Engineering and Land Surveying Board operates and relates to the fundamentals of engineering and land surveying examinations and the process by which individuals desiring to take those examinations will apply directly to and receive permission from the National Council of Examiners for Engineering and Surveying in order to take the examinations.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections of state or local governmental units as a result of this proposed change.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule change will have no impact on costs and/or economic benefits to directly affected persons or non-governmental groups.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule change will have no effect on competition and employment.

Donna Sentell  
Executive Director  
1305#033

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of State Elections Division**

#### **Prohibition on Accumulation of Annual, Sick and Compensatory Leave for Registrars of Voters (LAC 31:II.117)**

Pursuant to the provisions of the Administrative Procedure Act (R.S. 49:950, et seq.), and under the authority of R.S. 18:18, R.S. 18:134, R.S. 18:1400.8 and R.S. 36:742, the secretary of state hereby gives notice of his intent to adopt this Rule to amend LAC 31:II.Chapter 1 to implement a uniform time and attendance policy for the registrars of voters. The registrars of voters, who are the agency heads for their offices, in 53 of the 64 parishes have adopted a uniform time and attendance policy which has been accepted by the Department of State. This Rule serves to implement this time and attendance policy statewide, thus requiring all registrars of voters to adopt, implement and comply with this policy. Additionally, statewide implementation of this policy will provide for consistency in the human resources functions

statutorily required of the Department of State for and on behalf of the registrars of voters.

### **Title 31**

### **ELECTIONS**

### **Part II. Voter Registration and Voter Education**

#### **Chapter 1. Registrar of Voters**

#### **§117. Prohibition on Accumulation of Annual, Sick and Compensatory Leave for Registrars of Voters**

A. The registrar of voters of each parish shall not be eligible to earn or accrue any type of annual or sick leave or paid time off, including compensatory leave, during his/her tenure as the registrar of voters.

B. Registrars of voters shall be considered in "duty status" at all times and therefore will not be required to report absences from the office, take leave for time away from the office or report hours worked to the Department of State for purposes of payroll processing, except for those overtime hours actually worked during early voting for which payment is required and authorized by R.S. 18:1400.8. Each registrar of voters will be solely responsible for the performance of the mandated duties of his/her office. Variances in time and attendance shall not affect the provision of duties and services mandated for each registrar of voters by the Louisiana Constitution and Title 18 of the Louisiana Revised Statutes.

C. Registrars of voters will remain eligible to receive pay for overtime hours actually worked during early voting as authorized by R.S. 18:1400.8.

D. The current balances of accrued annual, sick and compensatory leave for each registrar of voters shall be frozen as of March 4, 2013. Upon retirement or separation from service, each registrar of voters will be eligible to be paid for up to a combined total of 300 hours of accumulated annual and compensatory leave. The leave balances (annual, sick and compensatory) remaining will be reported by the Human Resources Division of the Department of State to the Registrars of Voters Employees' Retirement System for purposes of certification for retirement credit and calculation of retirement benefits, as allowed by the laws and rules governing that system.

E. Any annual, sick and compensatory leave accrued by an employee appointed as registrar of voters in the future shall be carried forward and frozen as of the date of the appointment as the registrar of voters. Upon retirement or separation from service, the registrar of voters will be eligible to be paid for up to a combined total of 300 hours of accumulated annual and compensatory leave. The leave balances (annual, sick and compensatory) remaining will be reported by the Human Resources Division of the Department of State to the Registrar of Voters Employees' Retirement System for purposes of certification for retirement credit and calculation of retirement benefits, as allowed by the laws and rules governing that system.

F. The provisions of this rule shall not be applied in violation of any provision of the Fair Labor Standards Act. Any application of such is strictly prohibited and shall render the applicable portion of the rule null and void.

G. The provisions of this rule apply to all 64 registrars of voters in the State of Louisiana and all registrars of voters that may be appointed in the future.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 18:18, R.S. 18:134, R.S. 18:1400.8 and R.S. 36:742.

**HISTORICAL NOTE:** Promulgated by the Department of State, Elections Division, LR 39:

#### **Family Impact Statement**

The proposed Rule adopting LAC 31:II.117 regarding implementing a uniform time and attendance policy for the registrars of voters should not have any known or foreseeable impact on any family as defined by R.S. 49:927 or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children; and
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

#### **Poverty Impact Statement**

The proposed Rule amending LAC 31:II Chapter 1 regarding implementing a uniform time and attendance policy for the registrars of voters should not have any known or foreseeable impact on poverty as defined by R.S. 49:973. Specifically, there should be no known or foreseeable effect on:

1. the household income, assets and financial security;
2. early childhood development and preschool through postsecondary education development;
3. employment and workforce development;
4. taxes and tax credits; and
5. child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### **Public Comments**

Interested persons may submit written comments to Ashley Gautreaux, Human Resources Director, Department of State, P.O. Box 94125, Baton Rouge, LA 70804-9125. She will be responsible for responding to inquiries regarding the proposed Rule. The deadline for the Department of State to receive written comments is 4:30 p.m. on Friday, June 28, 2013 after the public hearing.

#### **Public Hearing**

A public hearing on the proposed Rule is scheduled for Thursday, June 27, 2013 at 10 a.m. in the Auditorium at the State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time, all interested persons will be afforded the opportunity to submit data, views or arguments either orally or in writing.

Tom Schedler  
Secretary of State

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Prohibition on Accumulation of Annual, Sick and Compensatory Leave for Registrars of Voters**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule change is anticipated to result in an indeterminable savings in future costs to the Registrar of Voters

Employees' Retirement System. No effect on local governmental units is anticipated. The proposed rule change prohibits registrar of voters from earning any type of annual, sick or compensatory leave or paid time off. Prohibiting the accumulation of annual or sick leave by registrar of voters will eventually lead to the elimination of increased retirement benefits resulting from the conversion of unused sick or annual leave to service credit. The proposed rule change states that registrar of voters shall be considered in "duty status" at all times and therefore will not be required to report absences from the office, take leave for time away from the office or report hours worked, except for overtime hours actually worked during early voting for which payment is required. The proposal provides that the current balances of accrued annual, sick and compensatory leave for each registrar shall be frozen as of March 4, 2013. Upon retirement or separation from service, registrars will be eligible to be paid by the local governing authority for up to a combined total of 300 hours of accumulated annual and compensatory leave. The balance of annual and sick leave remaining (after the 300 hours) will be reported to the Registrar of Voters Employees' Retirement System for calculation of retirement benefits.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no anticipated effect on revenue collections of state or local governmental units as a result of this rule change.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

For current registrar of voters, prohibiting the accumulation of additional leave after March 4, 2013 will reduce the amount of annual or sick leave available for conversion to service credit and will lead to a reduction in retirement benefits.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no estimated effect on competition and employment as a result of this rule change.

Joe R. Salter  
Undersecretary  
1305#032

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

**Yo-Yo and Trotline Regulations (LAC 76:VII.134)**

The Louisiana Wildlife and Fisheries Commission hereby advertises its intent to adopt regulations for yo-yo's and trotlines in Black Lake, Clear Lake and Prairie Lake (Natchitoches Parish), Caddo Lake (Caddo Parish), Chicot Lake (Evangeline Parish), D'Arbonne Lake (Union Parish), and Lake St. Joseph (Tensas Parish), Louisiana.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part VII. Fish and Other Aquatic Life**

**Chapter 1. Freshwater Sport and Commercial  
Fishing**

**§134. Black Lake, Clear Lake, Prairie Lake, Caddo  
Lake, Chicot Lake, D'Arbonne Lake, and Lake  
St. Joseph**

A. The following regulations are applicable to the use of yo-yo's and trigger devices when used in Black Lake, Clear

Lake and Prairie Lake (Natchitoches Parish), Caddo Lake (Caddo Parish), Chicot Lake (Evangeline Parish), D'Arbonne Lake (Union Parish), and Lake St. Joseph (Tensas Parish), Louisiana.

1. No more than 50 yo-yos or trigger devices shall be allowed per person.

2. Except for those devices that are attached to a privately owned pier, boathouse, seawall, or dock, each yo-yo or trigger device shall be clearly tagged with the name, address, and telephone number of the owner or user.

3. When in use, each yo-yo or trigger device shall be checked at least once every 24 hours, and all fish and any other animal caught or hooked, shall be immediately removed from the device.

4. Except for those devices that are attached to a privately owned pier, boathouse, seawall, or dock, each yo-yo or trigger device must be re-baited at least once every 24 hours.

5. Except for those metal objects located above the water that are affixed to a private pier, dock, houseboat, or other manmade structure which is designed for fishing, no yo-yo or trigger device shall be attached to any metal object.

6. Except for an object used strictly in the construction of a pier, boathouse, seawall, or dock, no object which is driven into the lake bottom, a stump, tree, or the shoreline shall be used to anchor a yo-yo or trigger device. "Object" means rebar or other metal material, cane, PVC tubing, construction material, or any other type of material.

7. Except for those devices that are attached to a privately owned pier, boathouse, seawall, or dock, when not being used in accordance with the provisions of this Section, each yo-yo or trigger device shall be removed from the waterbody immediately.

B. The following regulations are applicable to the use of trotlines when used in Black Lake, Clear Lake and Prairie Lake (Natchitoches Parish), Caddo Lake (Caddo Parish), Chicot Lake (Evangeline Parish), D'Arbonne Lake (Union Parish), and Lake St. Joseph (Tensas Parish), Louisiana.

1. All trotlines shall be clearly tagged with the name, address, and phone number of the owner or user and the date of placement. The trotline shall be marked on each end with a floating object that is readily visible.

2. At any given time, no person shall set more than three trotlines with a maximum of 50 hooks each.

3. All trotlines shall have an eight-foot cotton leader on each end of the trotline.

4. Except for those metal objects located above the water that are affixed to a private pier, dock, houseboat, or other manmade structure which is designed for fishing, no trotline shall be attached to any metallic object.

5. Each trotline shall be attended daily when in service.

6. When not in use, each trotline shall be removed from the waterbody by the owner or user.

C. A violation of any of the provisions of this Section shall be a class one violation, except there shall be no imprisonment. In addition, any device found in violation of this Paragraph shall be immediately seized by and forfeited to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:326.3 and 56:6(32).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 38:

#### **Family Impact Statement**

In accordance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out in R.S. 49:972(B).

#### **Poverty Impact Statement**

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

#### **Public Comments**

Interested persons may submit written comments of the amended Rule to Mike Wood, Director, Inland Fisheries Section, Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., August 2, 2013.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including, but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Ronald Graham  
Chairman

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: Yo-Yo and Trotline Regulations**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule change will have no impact on state or local governmental unit expenditures. The proposed rule change expands the restriction for items used to attach yo-yos, trigger devices, and trotlines from metal objects to any object in seven water bodies (Black Lake, Clear Lake, Prairie Lake, Caddo Lake, Chicot Lake, D'Arbonne Lake, and Lake St. Joseph.) The proposed rule change restricts placement of rebar or other metal material, cane, PVC tubing, construction material, or any other type of material.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change is anticipated to have no impact on revenue collections of state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The small number of anglers who currently use yo-yos, trigger devices, or trotlines attached to artificial objects in Black Lake, Clear Lake, Prairie Lake, Caddo Lake, Chicot Lake, D'Arbonne Lake, or Lake St. Joseph may be negatively affected by the proposed rule change.

The proposed change is expected to have a positive effect on users of Black Lake, Clear Lake, Prairie Lake, Caddo Lake, Chicot Lake, D'Arbonne Lake, and Lake St. Joseph by increased aesthetic value and decreased potential for navigation hazard and incidental boat damage from contact with objects placed to attach yo-yos, trot-lines, or trigger devices.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule change is expected to have no effect on competition and employment.

Sammy Guillory  
Deputy Assistant Secretary  
1305#034

John D. Carpenter  
Legislative Fiscal Officer  
Legislative Fiscal Office

# Potpourri

## POTPOURRI

### Department of Agriculture and Forestry Horticulture Commission

#### Landscape Architect Registration Exam

The next landscape architect registration examination will be given August 20, 2013, beginning at 9 a.m. at the 4-H Mini Farm Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending the application and fee is August 13, 2013.

Further information pertaining to the examinations may be obtained from Tad Hardy, Director, Horticulture Commission, P.O. Box 3596, Baton Rouge, LA 70821-3596, phone (225) 952-8100.

Any individual requesting special accommodations due to a disability should notify the office prior to August 13, 2013. Questions may be directed to (225) 952-8100.

Mike Strain, DVM  
Commissioner

1305#023

## POTPOURRI

### Board of Trustees of the Assessors' Retirement Fund

Public Hearing—Substantive Changes to Proposed Rule; Assessors' Retirement Fund (LAC 58:XIX.Chapters 1-7)

The Board of Trustees of the Assessors' Retirement Fund (fund) published a Notice of Intent to promulgate in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., in the October 20, 2012 edition of the *Louisiana Register* (LR 38:2570). In order to achieve administrative simplification, the fund proposes to amend certain portions of the proposed Rule. Subsection A of §101 is hereby amended by substituting the word "calendar" for the word "fiscal" in the definition of *IRC §415 compensation*. Subsection E of §101 is hereby amended by substituting the word "calendar" for the word "fiscal" in the definition of limitation year.

Taken together, these proposed amendments will simplify the administration of the proposed Rule as published by the fund in the October 2012 edition of the *Louisiana Register* (LR 38:2570). No fiscal or economic impact will result from the amendments proposed to this notice.

In accordance with the provisions of the Administrative Procedure Act, specifically at R.S. 49:968(H)(2), the board gives notice of a public hearing to receive additional comments and testimony on these substantive amendments to the proposed Rule. The hearing will be held at 3 p.m. on Wednesday, June 26, 2013 at 3060 Valley Creek Dr., Baton

Rouge, LA. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing.

Nannette Menou  
Executive Director

1305#015

## POTPOURRI

### Department of Economic Development Business Incentive Services

#### Public Hearing Date Change Competitive Projects Tax Exemption Program

The Department of Economic Development is issuing this Potpourri to notify the public that the Competitive Projects Tax Exemption Program Notice of Intent public hearing date has been rescheduled from Monday May 27, 2013 at 10 am to Friday May 24, 2013 at 10 am. The May 24, 2013 public hearing will be held at Department of Economic Development, 1051 North Third Street, Baton Rouge, LA 70802. The department inadvertently scheduled the public hearing for Memorial Day which is a state holiday and is rescheduling the hearing to a date more convenient for the public to attend and give public comments.

Written comments are now due to the department by the close of business on Thursday May 26, 2013. Any questions may be directed to Danielle B. Clapinski at either [danielle.clapinski@la.gov](mailto:danielle.clapinski@la.gov) or (225) 342-3060.

Anne G. Villa  
Undersecretary

1305#029

## POTPOURRI

### Department of Natural Resources Office of Conservation

#### Hearing pursuant to Statewide Order No. 29-B Docket No. ENV 2013-L01

Notice is hereby given that the commissioner of conservation will conduct a hearing at 9:00 a.m., Tuesday, June 18, 2013, at the LaSalle Building located at 617 North Third Street, Baton Rouge, LA.

At such time, the Commissioner, or his designated representative, will conduct a hearing pursuant to LAC Title 43, Part XIX, Subpart 1, Statewide Order No. 29-B relative to the matter of Avahoula Resources, LLC versus Exxon Mobil Corporation, et al., docket number 24625, 7th Judicial

District Court, Catahoula Parish, pertaining to a plan for the evaluation of environmental damage to property in the South Larto Lake Field in Sections 10, 11, 13-16, 21-28, 33, 34, Township 4 North, Range 5 East and Sections 19 and 30 in Township 4 North, Range 6 East.

Any concerns should be directed to:

Office of Conservation  
Environmental Division  
P.O. Box 94275  
Baton Rouge, LA 70804  
Re: Docket No. ENV 2013-L01

James H. Welsh  
Commissioner

1305#024

## POTPOURRI

### Department of Natural Resources Office of Conservation

#### Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
Aladdin Production Co., Inc.	Opelousas	L	Odon L Bacque et al unit 2	001D	79477(30)
C. L. Morris	John B Files	S	John B Files	001	52748
C. L. Morris	Caddo Pine Island	S	Files & Mayfield	001	51719
C. L. Morris	Caddo Pine Island	S	Files & Mayfield	B-1	52722
C. L. Morris	Caddo Pine Island	S	Mathieu	002	51918
C. L. Morris	Caddo Pine Island	S	Marion K Smith	001	51869
Black Bayou Management Co Inc.	Newport	S	Olinkraft 663	001	163500
Santa Fe Minerals, Inc.	Cheneyville	L	Weil Company Inc	005	23291(30)
Santa Fe Minerals, Inc.	Cheneyville	L	Weil Company Inc	009	23652(30)
Goldsberry Operating Co, Inc.	Eola	L	CKFLD 1 SU F; Haas Inv.	002	134096 (30)
Burnham & Browning Drlg Co.	Caddo Pine Island	S	R T Glassell	001	50246

Operator	Field	District	Well Name	Well Number	Serial Number
Burnham & Browning Drlg Co.	Caddo Pine Island	S	N B Stoer	001	50354
Monterey Pipeline Co.	Pecaniere	L	FC SUC;BT Bay LBR Co min fee	001	77838
Terrebonne Gas Co Inc	Wildcat-So La Lafayette Dist	L	Atlas Knapp	001	6785
K & S Rentals	Caddo Pine Island	S	Texaco A - Blake	004	196996
K & S Rentals	Caddo Pine Island	S	Texaco A - RVS	012	196997
K & S Rentals	Caddo Pine Island	S	Texaco A SWD	002	197004
K & S Rentals	Caddo Pine Island	S	Texaco A - Blake	013	197005
K & S Rentals	Caddo Pine Island	S	Texaco A	014	197009
K & S Rentals	Caddo Pine Island	S	Texaco A - Blake	018	197010
K & S Rentals	Caddo Pine Island	S	Texaco A	015	197011
K & S Rentals	Caddo Pine Island	S	Texaco A	016	197012
K & S Rentals	Caddo Pine Island	S	Texaco A - Blake	028	197020
K & S Rentals	Caddo Pine Island	S	Texaco A - Blake	030	197022
K & S Rentals	Caddo Pine Island	S	Texaco A - Blake	031	197023
K & S Rentals	Caddo Pine Island	S	Texaco A - Blake	032	197024
K & S Rentals	Caddo Pine Island	S	Texaco A - Blake	033	197025
K & S Rentals	Caddo Pine Island	S	Texaco A - Blake	034	197026
K & S Rentals	Caddo Pine Island	S	Texaco A - RVS	013	197588
K & S Rentals	Caddo Pine Island	S	Texaco A	024	197639
K & S Rentals	Caddo Pine Island	S	Texaco A	028	197643
K & S Rentals	Caddo Pine Island	S	Texaco A - RVS	011	197644
K & S Rentals	Caddo Pine Island	S	Texaco A - Blake	039	197645
K & S Rentals	Caddo Pine Island	S	Texaco A - Blake	037	197646

Operator	Field	District	Well Name	Well Number	Serial Number
K & S Rentals	Caddo Pine Island	S	Texaco A	032	197647
K & S Rentals	Caddo Pine Island	S	Texaco A	035	197650
K & S Rentals	Caddo Pine Island	S	Texaco A	036	197651
K & S Rentals	Caddo Pine Island	S	Texaco A - RVS	001	197730
K & S Rentals	Caddo Pine Island	S	Texaco A - RVS	004	197733
K & S Rentals	Caddo Pine Island	S	Texaco A - RVS	005	197734
K & S Rentals	Caddo Pine Island	S	Texaco A - RVS SWD	007	197736
K & S Rentals	Longwood	S	Hoss RA SU75; Mcneil 1 et al	001	236057
Unknown Operator	Lake Boeuf, Southwest	L	Pam Dawson	1	990478

James H. Welsh  
Commissioner

1305#028

### POTPOURRI

#### Department of Natural Resources Office of the Secretary Fishermen's Gear Compensation Fund

#### Underwater Obstruction—Latitude/Longitude Coordinates

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 6 claims in the amount of \$27,762.50 were received for payment during the period April 1, 2013 - April 30, 2013

There were 6 paid and 0 denied.

Latitude/Longitude Coordinates, in Degree Decimal Minutes, of reported underwater obstructions are:

29 04.298	89 19.928	Plaquemines
29 23.662	90 01.761	Jefferson
29 33.184	92 30.212	Vermilion
29 44.396	93 23.924	Cameron
29 45.910	89 30.810	Saint Bernard
29 50.530	89 41.460	Saint Bernard

A list of claimants and amounts paid can be obtained from Gwendolyn Thomas, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 44277, Baton Rouge, LA 70804 or you can call (225)342-9388.

Stephen Chustz  
Secretary

1305#037

### POTPOURRI

#### Department of Revenue Policy Services Division

#### Natural Gas Severance Tax Rate Effective July 1, 2013

The natural gas severance tax rate has been set at 11.8 cents per thousand cubic feet (MCF) measured at a base pressure of 15.025 pounds per square inch absolute and at the temperature base of 60 degrees Fahrenheit effective July 1, 2013, through June 30, 2014.

This tax rate is set each year by multiplying the natural gas severance tax base rate of 7 cents per MCF by the "gas base rate adjustment" determined by the Secretary of the Department of Natural Resources in accordance with R.S. 47:633(9)(d)(i). The "gas base rate adjustment" is a fraction, of which the numerator is the average of the New York Mercantile Exchange (NYMEX) Henry Hub settled price on the last trading day for the month, as reported in the Wall Street Journal for the previous 12-month period ending on March 31, and the denominator is the average of the monthly average spot market prices of gas fuels delivered into the pipelines in Louisiana as reported by the Natural Gas Clearing House for the 12-month period ending March 31, 1990 (1.7446 \$/MMBTU).

Based on this computation, the Secretary of the Department of Natural Resources has determined the natural gas severance "gas base rate adjustment" for April 1, 2012, through March 31, 2013, to be 168.48 percent. Applying this gas base rate adjustment to the base tax rate of 7 cents per MCF produces a tax rate of 11.8 cents per MCF effective July 1, 2013, through June 30, 2014. The reduced natural gas severance tax rates provided for in R.S. 47:633(9)(b) and (c) remain the same.

This Potpourri was published on the Office of the State Register's website on April 29, 2013.

Questions concerning the natural gas severance tax rate should be directed to the Severance Tax Section of the Special Programs Division at 225-219-7656.

Jarrod Coniglio  
Chief of Staff

1305#014



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